Transportation Act
1920

Guaranty Trust Company
of New York

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Transportation Act
1920

Approved February 28, 1920

Guaranty Trust Company of New York
140 Broadway

FIFTH AVENUE OFFICE
Fifth Avenue and 43rd Street

MADISON AVENUE OFFICE
Madison Avenue and 60th Street

GRAND STREET OFFICE
268 Grand Street

LONDON LIVERPOOL PARIS HAVRE BRUSSELS

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GUARANTY TRUST COMPANY OF NEW YORK

Foreword

THE Transportation Act, 1920, approved February 28, 1920, by which the Government returns the railroads to their owners, is one of the most important reconstruction measures that Congress has enacted. Many plans for the return of the roads to private control were submitted. The new legislation embodies the plan and the conditions upon which Congress has decided the President shall relinquish control, and the owners resume operation, on March 1, 1920.

The text of the law has been printed from the report of the Conference Committee and, although we cannot guarantee its accuracy, we believe it to be correct.

This booklet contains a general summary and the text of the Transportation Act, 1920, fully indexed, together with a brief review of prior laws pertaining to Federal regulation.

GUARANTY TRUST COMPANY OF NEW YORK.

March 1, 1920.

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Prior Laws Pertaining to Federal Regulation

The Federal regulation of railroads in the United States virtually began with the enactment in 1887 of the Interstate Commerce Act, creating an Interstate Commerce Commission of five members to be appointed by the President with the advice and by the consent of the Senate. The Act applied to interstate and foreign freight and passenger traffic carried by railroads, or in the case of continuous shipment, by rail and water, but it did not apply to intrastate traffic, nor to interstate or foreign traffic carried entirely by water.

The Interstate Commerce Commission was vested with important powers with respect to the transportation systems of the nation. Among other things, the Act prohibited pooling, and all unjust personal discriminations in the form of special rates, rebates or otherwise, forbade discriminations between localities, commodities and connecting lines, and required the provision of reasonable and equal facilities for the interchange of traffic. The Act also provided that all charges should be just and reasonable, and required rates and fares to be printed and posted for public inspection.

Although the provisions of the law appeared to be sufficiently comprehensive, it never accomplished the results anticipated by its framers, partly because, under the law, the orders of the Interstate Commerce Commission were not binding upon the railroads unless a

Circuit Court of the United States compelled obedience, but chiefly because the courts so interpreted its main provisions as greatly to limit its scope. It was intended that the functions of the courts in connection with investigations by the Commission were to be confined to reviewing questions of law which might be involved in the enforcement of the Commission's orders. The courts, however, went much further than this and permitted the introduction of evidence which had not been submitted to the Commission. This practice naturally reduced the effectiveness of the Commission as an investigating body, inasmuch as it led to much duplication of effort, caused long delays in adjudication, and greatly increased the expense of litigation, thereby discouraging the submission of grievances to the Commission.

In spite of the failure of the law to accomplish the ends most desired, many beneficial results came from the legislation, among which may be mentioned publicity of rates, reduction of the number of freight classifications, and a better adjustment of charges, as between different shippers, different localities, and different commodities.

The next important step in the development of Government regulation of interstate commerce was the enactment of the Elkins Act of February 19, 1903, which made corporations as well as their agents liable for violation of laws relating to interstate commerce, and made deviation from the published schedules of rates the sole test of discrimination. The Expediting Act of 1903 gave all cases pending in any Circuit Court of the United States and brought under the Interstate Commerce Act, the Sherman Anti-trust Act of 1890, or any other acts having a like purpose, in

which the United States Government was the complainant, precedence over all other cases.

In 1906 the Hepburn Amendment was enacted, which greatly increased the powers of the Interstate Commerce Commission, and extended the scope of the original act, making it applicable to express companies, sleeping-car companies and pipe lines for transporting oil or other commodities except water and gas, and increasing considerably the things included in the terms "railroad" and "transportation." The law specifically invested the Commission with rate-making powers which had been denied to it under the interpretations which the courts had placed on the provisions of the Act of 1887. The prestige of the Commission was also greatly increased by a provision to the effect that all its orders except those for the payment of money should take effect within such reasonable time, not less than 30 days, as the Commission should prescribe. This law also conferred upon the Commission the power to prescribe a uniform system of accounts for railroads engaged in interstate commerce, and contained provisions further discouraging rebating.

The enactment of the Carmack Amendment of 1906 was of great advantage to shippers, since it required the carrier receiving traffic for interstate shipment to issue a bill of lading for such shipment, and made it liable to the lawful holder of the bill for any loss or damage caused by any carrier over whose lines it might pass. The initial carrier was allowed to recover from the carrier on whose lines the damage occured.

In 1910 the powers of the Commission were still further increased by the Mann-Elkins Amendment. Among other things, this Act vested the Commission

with authority to suspend new rate schedules proposed by carriers until opportunity had been afforded the Commission to determine by investigation whether the proposed increases were justified.

The Panama Canal Act of August 24, 1912, prohibited any railroad company or other common carrier subject to the Act from owning, leasing, operating, controlling, or having any interest in common carriers by water or any vessel carrying freight or passengers operating through the Panama Canal or elsewhere in competition with such railroad or other carrier. This Act also vested in the Commission the authority to require the connection of rail and water carriers where reasonably practicable; to establish through routes and maximum joint rates over rail and water lines; to establish maximum proportional railroad rates to and from ports; and to order any railway, entering into any arrangements with a carrier by water operating from any port in the United States for handling through business between an interior point therein and a foreign country, to enter into similar arrangements with any or all steamship lines operating from that port to the same foreign country.

There were two important measures affecting the railroads enacted on July 2, 1890, and on October 15, 1914, respectively. The former was the Sherman Anti-Trust Law which made contracts, combinations in the form of a trust or otherwise, or conspiracies in restraint of interstate or foreign trade or commerce illegal. Many illegal combinations were dissolved after the enactment of this law. The Clayton Act forbade all corporations engaged in interstate commerce to acquire stock of another such corporation where the competition might thereby be lessened, commerce restrained

in any section, or a monopoly thereby created of any line of commerce. It was expressly provided that the law should not apply to corporations purchasing such stock for investment purposes solely, nor be construed as prohibiting a carrier, through the acquisition of stock, from aiding in the construction of short branch lines, nor prevent the extension of its lines through acquisition of such stock where no substantial competition existed between the purchasing and selling corporations. The Interstate Commerce Commission was vested with authority to compel compliance with those sections of the Clayton Act applicable to common carriers.

Under the Act approved August 29, 1916, the President was empowered to take possession and assume control of any system or systems of transportation and to utilize them to the exclusion, as far as necessary, of all other traffic for the transportation of troops, war material, and equipment, and for needful and desirable purposes connected with the prosecution of the war. Acting under the authority vested in him by this Act, the President on December 26, 1917, issued a proclamation assuming control of all systems of transportation located wholly or in part within the boundaries of the continental United States, such control becoming effective on December 28, 1917.

On March 21, 1918, the Federal Control Act was signed by the President. This Act provided for the operation of the properties of the carriers during the war and for a reasonable time thereafter, not exceeding 21 months from the date of the President's proclamation of the exchange of ratification of the treaty of peace, and for compensation for the use of their properties while under Federal Control.

This legislation was designed only to meet the emergency conditions arising from the war and it was specifically provided therein that it was not to be construed as expressing the future policy of the Government concerning the ownership, control or regulation of the carriers or the method or basis of their capitalization. With the war ended, it became incumbent upon Congress to enact the necessary legislation to bring about the return of the railroads to their original owners and many plans were brought forward, designed to accomplish this result. Among these may be mentioned the plans offered by the railway executives; by the security owners; by the rail way brotherhoods, which, under the name of the Plumb Plan, advocated purchase of the railroads by the Government and operation by the employees; by the National Transportation Conference, representing a composite of the ideas of the various interests involved; by the Senate Interstate Commerce Committee, known as the Cummins Bill; and by the Interstate Commerce Commission, known as the Esch Bill.

On December 24, 1919, the President issued a proclamation relinquishing control and operation of the railroads, such relinquishment to be effective at 12.01 a.m. March 1, 1920. The approach of the termination of the period of Federal control emphasized the necessity for immediate action by Congress. As a result, the Senate passed the Cummins Bill and the House passed the Esch Bill, each with numerous changes and amendments. The Conferees of the Senate and House, after considering the two bills, made their report which was approved by both Houses and became a law on February 28, 1920 upon being signed by the President.

Summary of the Transportation Act, 1920

Termination of Federal Control

Under the provisions of the Act, Federal control* will terminate at 12:01 a. m., March 1, 1920, at which time the President will relinquish possession and control of all railroads and systems of transportation then under Federal control and will discontinue Federal operation. Thereafter the President shall not have or exercise any of the powers conferred upon him by the Federal Control Act relating to—

(1) The use or operation of railroads or systems of transportation;
(2) The control or supervision of the carriers owning or operating them, or of their business or affairs;
(3) Their rates, fares, charges, classifications, regulations, or practices;
(4) The purchase, construction, or other acquisition of transportation facilities on the inland, canal, or coastwise waterways, or (except in pursuance of contracts entered into before the termination of Federal control) of terminals, motive power, cars, or equipment, on or in connection with any railroad or system of transportation;
(5) The utilization or operation of canals;
(6) The purchase of securities of carriers, except in pursuance of contracts entered into before the termination of Federal control, or as a necessary or proper

* "Federal control" means the possession, use, control, and operation of railroads and systems of transportation taken over or assumed by the President under Section 1 of the Act of August 29, 1916, or under the Federal Control Act.

incident to the adjustment, settlement, liquidation and winding up of matters arising out of Federal control; or

(7) The use of the revolving fund created by the Act of March 21, 1918, or any of the additions thereto, made under such Act or by the Act of June 30, 1919, for any of the purposes above stated, except in pursuance of contracts entered into before the termination of Federal control and for the settlement of matters arising out of it and except as provided in Section 202 (page 40).

The power conferred upon the President, under the Act of August 29, 1916, with respect to taking possession, assuming control and utilizing any system of transportation in time of war is not affected by this Act.

All transportation facilities on the inland, canal and coastwise waterways acquired by the United States under Section 6 of the Federal Control Act, except those constituting parts of railroads or transportation systems over which Federal control was assumed, are transferred to the Secretary of War, who shall operate or cause the same to be operated in accordance with the provisions of Section 201 (page 39).

Settlement of Matters Arising Out of Federal Control

As soon as practicable after the termination of Federal control the President is directed to wind up all matters arising out of and incident to Federal control. In addition to other funds which are made available for the purpose, the sum of $200,000,000 is appropriated.

The President is also given the right, at all reasonable times until the affairs of Federal control are concluded, to inspect the property and records of all

systems of transportation which were under Federal control at any time, if such action is necessary (1) to protect the interests of the United States; (2) to supervise matters being handled for the United States by agents of the carriers; or, (3) to secure information concerning matters arising during Federal control. Carriers are required to provide all reasonable facilities therefor and, upon request of the President, to furnish all necessary and proper information and reports compiled from the records kept during the period of Federal control. They must also keep and continue such records and furnish like information and reports compiled therefrom.

Compensation of Carriers With Which No Contract Was Made

Upon request of any carrier entitled to just compensation under the Federal Control Act, but with which no contract, fixing or waiving compensation, has been made and which has made no waiver of compensation, the President

(1) shall pay it so much of the amount he may determine to be just compensation, as may be necessary to meet corporate charges and expenses referred to in paragraph (b) of Section 7 of the standard contract between the United States and the carriers, accruing during the period for which such carrier is entitled to just compensation under the Federal Control Act, and also the sums required for dividends; and

(2) may, in his discretion, pay it the whole or any part of the remainder of such estimated amount of just compensation.

The acceptance, however, of any of the above benefits by a carrier shall not deprive it of the right to claim additional compensation, which unless agreed upon

shall be ascertained as provided in Section 3 of the Federal Control Act, but shall constitute an acceptance of all its provisions as modified by this Act, and shall obligate the carrier to pay to the United States, with interest at the rate of six per centum per annum from a date or dates fixed in proceedings under Section 3 of the Federal Control Act, the amount by which the sums received on account of such compensation under this section or otherwise exceed the sum found due in such proceedings (Section 203).

Reimbursement of Deficits During Federal Control

As soon as practicable after March 1, 1920, the Interstate Commerce Commission shall ascertain for every carrier, as defined in Section 204, for every month of the period of Federal control during which its system of transportation was not under Federal operation, its deficit in railway operating income, if any, and its railway operating income, if any, (called "Federal control return") and the average of each, if any, for the three corresponding months of the test period* taken together (called "test period return"†).

For every month of the period of Federal control during which a carrier's system was not under Federal operation, the Commission shall ascertain:

(1) the difference between its Federal control return, if a deficit, and its test period return, if a smaller deficit, or

* "Test period" means the three years ending June 30, 1917.

† "Test period return" in the case of a carrier which operated its railroad or system of transportation for at least one year during, but not for the whole of, the test period, means its railway operating income, or the deficit therein for the corresponding month during the test period, or the average thereof for the corresponding months during the test period taken together, during which the carrier operated its railroad or system of transportation.

(2) the difference between its test period return, if an income, and its Federal control return, if a smaller income, or
(3) the sum of its Federal control return, if a deficit, plus its test period return, if an income.

The sum of such amounts shall be credited to the carrier.

For every such month the Commission shall ascertain:

(1) the difference between the carrier's Federal control return, if an income, and its test period return, if a smaller income, or
(2) the difference between its test period return, if a deficit, and its Federal control return, if a smaller deficit, or
(3) the sum of its Federal control return, if an income, plus its test period return, if a deficit.

The sum of such amounts shall be credited to the United States.

If the sum of the amounts credited to the carrier exceeds the sum of the amounts credited to the United States, the difference shall be payable to the carrier. In the case of a carrier which operated its system for less than a year during, or for none of, the test period, the above computation shall not be used, but the carrier shall receive its deficit in operating income for that portion (as a whole) of the period of Federal control during which it operated its own system.

Legal Proceedings Arising Out of Federal Control

Legal proceedings, based on causes arising out of Federal control, which prior to Federal control could have been brought against the carrier, shall be brought against an agent designated by the President. Such

proceedings may be instituted within periods of limitations prescribed by law but not later than two years after the passage of this Act, in any court which but for Federal control would have had jurisdiction of the cause of action had it arisen against the carrier. The procedure to be followed in serving process in connection with such proceedings is outlined in Section 206.

Claims for reparation on account of damage caused by the collection or enforcement by or through the President during the period of Federal control of rates, classifications, regulations or practices (including those applicable to interstate, foreign, or intrastate traffic), which were unjust, unreasonable, unjustly discriminatory or unduly or unreasonably prejudicial, or otherwise in violation of the Interstate Commerce Act, may be filed with the Commission within one year after the termination of Federal control against the agent designated by the President. The Commission is given jurisdiction to hear and decide such complaints, as provided in the Interstate Commerce Act. All such actions and reparation claims pending at the termination of Federal control shall not abate by reason of such termination, but may be prosecuted to final judgment, substituting the agent designated by the President. Final judgments and awards shall be paid out of the revolving fund created by Section 210 (page 57).

The period of Federal control shall not be computed as part of the periods of limitation in actions against carriers or in claims for reparation to the Commission for causes of action arising prior to Federal control. No execution or process other than on a judgment recovered by the United States against a carrier shall be

levied upon the property of any carrier where the cause of action grew out of the possession, use, control or operation of any system of transportation by the President under Federal control.

Refunding of Carriers' Indebtedness to United States

As soon as practicable after the termination of Federal control the President shall ascertain

(1) the amount of each carrier's indebtedness to the United States at the termination of Federal control incurred for additions and betterments made during Federal control and properly chargeable to capital account, or otherwise incurred;

(2) the amount of indebtedness of the United States to the carrier arising out of Federal control, which amount may be set off against class (1) so far as the President may deem wise; but only to the extent permitted under any contract now or hereafter made between the carrier and the United States in respect to the matters of Federal control; or where no such contract exists, to the extent permitted under paragraph (b) of Section 7 of the standard contract relative to deductions from compensation.

The right of set-off shall not be exercised so as to prevent the carrier from having (1) the sums required for corporate charges and expenses referred to in paragraph (b) of Section 7 of the standard contract, accruing during Federal control, and (2) the sums required for dividends declared and paid during Federal control, including also a sum equal to that proportion of such last dividend which the period between its payment and the termination of Federal control bears to the last regular dividend period. Nor shall such right of set-off be exercised unless there shall have first been paid such additional sums as may be necessary to pro-

vide the carrier with working capital in an amount not less than one twenty-fourth of its operating expenses for the calendar year 1919.

At the request of the carrier, any remaining indebtedness to the United States in respect to such additions and betterments shall be funded for a period of ten years from the termination of Federal control or for a shorter period at the option of the carrier, with interest at the rate of six per centum per annum, payable semi-annually, subject to the right of the carrier to pay on any interest-payment day, the whole or any part of such indebtedness. A carrier obtaining the funding of such indebtedness shall give such security as the President may prescribe.

If the President and any of the various carriers shall enter into an agreement for funding through the medium of car trust certificates or otherwise, the indebtedness to the United States incurred for equipment ordered for the benefit of the carrier, such indebtedness so funded shall not be refundable under the above provisions. Any other indebtedness to the United States, which may exist after the settlement of accounts and which is then due, shall be evidenced by notes payable in one year from the termination of Federal control, or a shorter period, at the option of the carrier, with interest at the rate of six per centum per annum, and secured by such collateral security as the President may require.

The President shall have the right to make such arrangements for extension of the time of payment of any bonds, notes or other securities, acquired under the provisions of this Act, (Section 207) or of the Federal Control Act, or of the Act of November 19, 1919, or for their exchange for other securities, or

partly for cash and partly for securities, as may be provided for in any agreement entered into by him or as may in his judgment seem desirable.

By agreement with the President, carriers may issue notes or other evidences of indebtedness secured by equipment trust agreements, for equipment purchased during Federal control by or through the President under Section 6 of the Federal Control Act, and allocated to such carriers respectively. The carrier may issue such evidences of indebtedness pursuant to this section without the authorization or approval of any state or Federal authority, and without compliance with any state or Federal requirement as to notification.

Rates

All rates, and all classifications, regulations and practices, changing, affecting or determining any part of, or the aggregate of, rates, or the value of the service rendered, which on February 29, 1920, are in effect on the lines of carriers subject to the Interstate Commerce Act, shall continue in force until thereafter changed by Federal or state authority, or pursuant to authority of law. Prior to September 1, 1920, no such rate shall be reduced and no such classification, regulation or practice shall be changed so as to reduce any rate unless such reduction or change is approved by the Commission.

All divisions of joint rates in effect on February 29, 1920, between the lines of carriers subject to the Interstate Commerce Act, shall continue in force until thereafter changed by mutual agreement between the interested carriers or by state or Federal authorities.

Guaranty to Carriers After Termination of Federal Control.

Under Section 209 of the Act, the United States guarantees to carriers, as therein defined, operating income as follows:

(1) With respect to any carrier with which a contract (except a cooperative contract or waiver) fixing compensation has been made, that the railway operating income for the guaranty period, namely, the six months beginning March 1, 1920, as a whole, shall not be less than one-half the amount named as annual compensation, or where the contract fixed a lump sum for the whole period of Federal operation, that the railway operating income for the guaranty period as a whole shall not be less than an amount which shall bear the same proportion to the lump sum so fixed as six months bears to the number of months during which the carrier was under Federal operation, including in both cases the increases in such compensation provided for in Section 4 of the Federal Control Act;

(2) With respect to any carrier entitled to just compensation under the Federal Control Act, with which such contract has not been made, that the railway operating income for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President under the Federal Control Act, including the increases in such compensation provided for in Section 4 of that Act. If a carrier does not accept the President's estimate and tries its remedy in the Court of Claims, in which proceeding it is determined that a larger or smaller annual amount is due, the guaranty shall be increased or decreased accordingly;

(3) With respect to any carrier, whether or not entitled to just compensation under the Federal Control Act, with which such a contract has not been made, and as to which no estimate of just compensation is

made by the President, and which in the test period sustained a deficit in railway operating income, the guaranty shall be the amount by which the deficit for the guaranty period as a whole exceeds one-half of its average annual deficit, plus an amount equal to one-half the annual sum fixed by the President under Section 4 of the Federal Control Act;

(4) With respect to any carrier not entitled to just compensation under the Federal Control Act, which for the test period as a whole had an average annual railway operating income, that the guaranty shall be not less than one-half of the average annual railway operating income of such carrier during the test period.

If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under (1), (2) or (4) above exceeds the minimum railway operating income guaranteed therein, or under (3) above exceeds one-half of the annual sum fixed by the President with respect to such carrier under Section 4 of the Federal Control Act, such carrier shall pay the amount of such excess into the Treasury of the United States. Any carrier, however, may retain out of any such excess an amount necessary to enable it to pay its fixed charges accruing during the guaranty period. The definition of "railway operating income" and the details of its determination are contained in Section 209 (page 50).

The Commission shall, as soon as practicable after the expiration of the guaranty period, ascertain and certify to the Secretary of the Treasury the amount necessary to make good the guaranty to each carrier.

Upon application to the Commission, advances may be made to the carrier, during the guaranty period, not in excess of the estimated amount of the guaranty, to enable it to meet its fixed charges and operating expenses.

American Railway Express Company

The contract of June 26, 1918, between the American Railway Express Company and the Director General of Railroads, as amended and continued by the agreement of November 21, 1918, in so far as it constitutes a guaranty on the part of the United States against a deficit in operating income, is to remain in full force and effect during the guaranty period, if the Company files with the Interstate Commerce Commission not later than March 15, 1920, a statement that it accepts all the provisions of subdivision (i) of Section 209 of the law.

For the guaranty period, the American Railway Express Company shall pay to every carrier accepting the provisions of Section 209 regarding the guaranty, 50.25% of the gross revenue earned from all its express traffic on the carrier's lines, and the carrier shall accept from the former such percentage of the gross revenue as its compensation.

In arriving at the gross revenue on through or joint express traffic, the method of dividing the revenue between the carriers shall be that agreed upon between the carriers and the express company with the approval of the Commission.

If for the guaranty period the American Railway Express Company has no deficit in operating income, it shall pay the amount of its operating income for such period into the Treasury of the United States.

Upon application of the American Railway Express Company requesting during the guaranty period an advance of such sums, not exceeding the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its operating expenses,

the Commission may certify to the Secretary of the Treasury the amount of and times at which such advances shall be made. The Secretary is thereupon empowered to make such advances upon the execution by the Company of a contract with proper security, that upon final determination of the amount of the guaranty, the company will repay to the United States any amounts received from such advances in excess of the guaranty with interest at the rate of 6 per centum per annum from the time such excess was paid.

New Loans to Railways

During the period of transition immediately following the termination of Federal control, any carrier may at any time after the passage of this Act and before the expiration of two years after the termination of Federal control apply to the Commission for a loan from the United States, stating (1) the amount of and purpose of the loan and the uses to which it will be applied, (2) the term for which desired, (3) the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, (4) the character and value of the security offered, and (5) the extent to which the public convenience and necessity will be served. The application must be accompanied by the other data called for in Section 210.

If it is found that the making of the proposed loan or any part thereof by the United States is necessary to enable the applicant to properly meet the transportation needs of the public and that the prospective earning power and the character and value of the security offered are sufficient to furnish reasonable assurance of the ability to repay the loan within the

time fixed and to meet its other obligations in connection with the loan, the Commission may certify its findings of fact and its recommendations to the Secretary of the Treasury as to the amount of the loan which is to be made, the time, not exceeding five years from the making thereof, within which it is to be repaid, the character of the security offered, and the terms and conditions of the loan. The Secretary of the Treasury is authorized at any time before the expiration of 26 months after the termination of Federal control to make a loan not exceeding the maximum amount recommended in the certificate, out of any moneys in the revolving fund of $300,000,000 provided for by Section 210. Such loans shall bear interest at the rate of 6 per centum per annum and be placed to the credit of the revolving fund. The Secretary of the Treasury shall prescribe the time, not exceeding five years from the making thereof, within which such loan is to be repaid, the security which is to be taken therefor, the terms and conditions of the loan, and the form of the obligation to be entered into.

A carrier may issue evidences of indebtedness to the United States pursuant to the provisions of Section 210, without the authorization or approval of any state or Federal authority and without compliance with any state or Federal requirement as to notification.

Disputes Between Carriers and Their Employees and Subordinate Officials

The law provides that it shall be the duty of all carriers, as defined in Section 300 (page 58), and their officers, employees and agents to exert every reasonable effort and adopt every available means to

avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes are to be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers or the employees or subordinate officials thereof directly interested in the dispute.

As a means of effecting settlement of such disputes, the law further provides that Railroad Boards of Labor Adjustment may be established by agreement between carriers and their employees or subordinate officials or organizations thereof. Each such Adjustment Board is to receive for hearing and decide disputes involving only grievances, rules, or working conditions, not decided in conference, as provided above, between the carrier and its employees or subordinate officials, who are, or any organization thereof which is, represented upon any such Adjustment Board.

Disputes may be brought before the Adjustment Board upon

(1) The application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute,

(2) A written petition signed by at least one hundred unorganized employees or subordinate officials directly interested in the dispute,

(3) The Adjustment Board's own motion, or

(4) The request of the Labor Board, whenever such Board is of the opinion that the dispute is likely to substantially interrupt commerce.

As a further means of settling disputes, a board is created to be known as the Railroad Labor Board, to be composed of nine members selected as follows:

(1) Three members representing employees and subordinate officials, to be appointed by the President with the consent of the Senate, from not less than six nominees offered by such employees;

(2) Three members representing the carriers, to be appointed by the President with the consent of the Senate, from not less than six nominees offered by the carriers; and

(3) Three members representing the public, to be appointed directly by the President with the consent of the Senate.

Any member of the Labor Board who, during his term of office, is an active member or in the employ of or holds any office in any organization of employees or subordinate officials or any carrier, or who owns any stocks or bonds thereof, or who is pecuniarily interested therein, is ineligible for membership upon the Board. No member, however, is required to relinquish honorary membership in, or his rights in any insurance or pension or other benefit fund maintained by any organization of employees or subordinate officials or by a carrier.

The Labor Board is empowered to hear and decide disputes involving grievances, rules, or working con ditions, upon certification to it by any Adjustment Board that in its opinion it has failed or will fail to reach a decision within a reasonable time, or in respect of which the Labor Board determines that any Adjustment Board has so failed or is not using due diligence in its consideration thereof.

Where an appropriate Adjustment Board is not organized the Labor Board shall receive for hearing and decide disputes involving grievances, rules, or working conditions which are not decided by conference between the carriers, their employees, or

subordinate officials, and which such Adjustment Board would be required to receive for hearing and decision. It shall also receive for hearing and decide disputes with respect to wages or salaries not decided by conference between carriers, their employees or subordinate officials.

The Labor Board shall for these purposes act upon

(1) The application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute,

(2) A written petition signed by not less than one hundred unorganized employees or subordinate officials directly interested in the dispute, or

(3) Its own motion, if it is of the opinion that the dispute is likely to substantially interrupt commerce.

The Labor Board may also, upon its own motion, within ten days after a decision has been reached between a carrier and its employees or subordinate officials, suspend the operation of such decision if it is of the opinion that it involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier, and it may affirm or modify such suspended decision.

Decisions of the Labor Board shall require the concurrence of at least five of the nine members, and in cases of decisions regarding wages or salaries, at least one of the representatives of the public must concur in the decision. Broad powers are vested in the Labor Board with respect to compelling the attendance of witnesses, production of books, documents, etc., and if it has reason to believe that any of its decisions or the decisions of an Adjustment Board are violated by a carrier or its employees, subordinate officials or any organization thereof, it may, after due notice and hearing to all persons directly interested in such violation,

determine whether in its opinion such violation has occurred, and make public its decision in such manner as it may determine. No penalty is provided for the violation of a decision of the Labor Board.

Prior to September 1, 1920, each carrier is required, under penalty, to pay to each of its employees or subordinate officials wages or salaries at a rate not less than that fixed by any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act, in effect upon the termination of Federal control.

Amendments to the Interstate Commerce Act.

The Transportation Act, 1920, makes many changes in the Interstate Commerce Act, the most important of which are outlined below. For the details of these changes, the reader is referred to Sections 400-502 of the law, beginning on page 66, of this booklet.

Rates

The Commission is directed to establish rates which will be adequate to provide the carriers as a whole, either in the entire country or in rate groups or territories to be established by the Commission, with an aggregate annual net railway operating income equal as nearly as may be to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation. The Commission is required, from time to time, to determine and publish the aggregate value of the property of the carriers and to determine what constitutes a fair return

upon such property, except that for the two years beginning March 1, 1920, it is directed to take as such fair return a sum equal to 5½ per centum of such aggregate value. It may, in its discretion, however, add not more than one-half of one per centum of such aggregate value to make provision for improvements, betterments or equipment chargeable to capital amount. For the purpose of determining the aggregate value of the carriers' property the Commission is directed to give to the property investment accounts, only that consideration to which they are entitled in establishing values for rate-making purposes.

If any carrier earns in any one year a net railway operating income in excess of 6 per centum of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund maintained by such carrier, until it equals 5 per centum of the value of the property, and the remainder paid to the Commission for the purpose of maintaining a general contingent fund. When a carrier's reserve fund equals 5 per centum of the value of its railway property, the portion of its excess income, which it is permitted to retain, may be used for any lawful purpose. The general contingent fund referred to above is to be used to make loans to carriers to meet expenditures for capital account and for other purposes described in the law.

Whenever the Commission finds that any rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce, or in interstate or foreign commerce, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, it shall prescribe the

rate, fare, or charge and the classification, regulation, or practice in such manner as in its judgment will remove such advantage, preference, prejudice, or discrimination.

The Commission is authorized to establish just, reasonable, and equitable divisions of joint rates where it finds that existing divisions are unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers who are parties thereto. While the Commission is empowered to prescribe maximum or minimum, or maximum and minimum rates, fares and charges, it is limited to prescribing maximum rates for through routes in cases where one of the carriers is a water line.

A further amendment to the Interstate Commerce Act provides that if any hearing with respect to rates, classifications, regulations, or practices can not be concluded within the period of suspension provided in Section 15 of the Interstate Commerce Act, as amended, the Commission may extend the time of suspension for a further period not exceeding thirty days, upon the expiration of which the proposed changes shall become effective as of the end of such period, provided the proceeding has not been concluded and an order made at the expiration of such thirty days. In the case of a proposed increase in freight rates the Commission may require that accurate account be kept of all amounts received by reason of such increase, and upon completion of the hearing, may require that such amounts as are found to be excessive shall be refunded to shippers.

Section 418 of the law contains other amendments to Section 15 of the Interstate Commerce Act pertaining to through routes of water carriers, transportation

of live stock, etc., which may be found on pages 85 to 89 of this booklet.

Consolidations, Mergers, and Pooling

Acquisition by one carrier of the control of another by lease or by purchase of stock or in any other manner not involving the consolidation of such carriers into a single system for ownership and operation, is authorized upon approval by the Commission. Subject to the limitations set forth in Section 407 of the law, the Commission is directed to prepare and adopt a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. Voluntary consolidations or mergers, which are in harmony with the plan as adopted, are permitted, subject to the approval of the Commission and to the requirement that the capital of the consolidated corporation shall not exceed the value of the consolidated properties as determined by the Commission. Division of traffic or earnings may be permitted by the Commission if, in its opinion, it will be in the interest of better service to the public, or economy in operation, and will not unduly restrain competition.

Joint Use of Terminals

The Commission is empowered in its discretion to require the joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals upon such terms as the carriers may agree upon, or, in the event of their disagreement, as it may find to be just and reasonable.

Construction and Abandonment of Lines of Railroads

After ninety days from the effective date of the law, no carrier by railroad is permitted to undertake the extension of its lines or the construction of new lines, without having first obtained from the Commission a certificate that public convenience and necessity requires such extension or construction. A certifieate is likewise required before a carrier shall acquire or operate any line of railroad or extension thereof, or engage in transportation over or by means of such additional or extended line, or abandon all or any portion of a line of railroad or the operation thereof. The authority of the Commission, as outlined above, does not extend to the construction or abandonment of spur, industrial, team, switching, or side tracks, located wholly within one state, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation.

Security Issues

The Commission is given power to regulate the issue of securities by railroad carriers. After 120 days from the effective date of the Transportation Act, 1920, no carrier is permitted to issue any stocks, bonds, or other securities or to assume any obligation or liability with respect to the securities of any other person, natural or artificial, without the approval of the Commission. This provision does not apply to notes maturing not more than two years after the date thereof, and aggregating (together with all other outstanding notes of a maturity of two years or less) not more than 5 per centum of the par value of the securities of the carrier

then outstanding, or in the case of securities having no par value, the fair market value as of the date of issue.

Routing of Traffic

Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, such carriers are made liable to the carrier thus deprived of its right to participate in the haul of the property, for the total amount of the rate or charge it would have received had it participated in the haul. This provision does not apply where the diversion or delivery was in compliance with a lawful order of the Commission; and in cases where the carrier to which the property was diverted had no notice by bill of lading, waybill, or otherwise, of the routing instructions, such carrier shall not be liable.

With respect to traffic not routed by the shipper, whenever the public interest and a fair distribution of the traffic so require, the Commission may direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier, and is to be there delivered to another carrier.

Nondiscrimination

The provisions of Section 404 of the Interstate Commerce Act, which prohibits discriminations on the part of common carriers, with respect to charges made for service rendered in the transportation of passengers or property, are made applicable to the transmission of intelligence. As a means of preventing unjust discrimination, all carriers by railroad, on or after July 1, 1920, are prohibited from relinquishing possession at destination of freight transported by them, until all rates and

charges have been paid, except under such rules and regulations as the Commission may prescribe.

Long and Short Haul

The long and short haul provisions of Section 4 of the Interstate Commerce Act are amended so as to provide that the Commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed. If a circuitous route is permitted to maintain higher rates to or from intermediate points on its line, in order to meet the charges of a more direct line to or from competitive points, such permission shall not include intermediate points as to which the haul of the circuitous route is not longer than that of the direct line or route between the competitive points,

Car Service

An amendment to Section 1 of the Interstate Commerce Act places within the jurisdiction of the Commission the use, control, and supply, as well as the movement, distribution, exchange and interchange of locomotives, cars and other vehicles used in the transportation of property, including special types of equipment, as, for example, refrigerator cars, and the supply of trains. Carriers by rail are required, under penalty, to make just and reasonable distribution of cars for the transportation of coal among the coal mines served by them, and in time of car shortage are required to maintain and apply just and reasonable ratings of such mines and to count each car furnished to or used by any such mine for transportation of coal.

Increase of Membership of Commission

The membership of the Commission is increased from nine to eleven members and their salaries are increased from $10,000 to $12,000 per annum. The salary of the secretary of the Commission is increased from $5,000 to $7,500 per annum.

Interlocking Directorates

The effective date of Section 10 of the Clayton Anti-Trust Act, prohibiting common directors of carriers and of corporations from which they purchase supplies, is extended until January 1, 1921. This extension, however, does not apply to any corporation organized after January 12, 1918.

After December 31, 1921, all persons are prohibited from being officers or directors of more than one carrier without the consent of the Commission.

Text of Transportation Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Title I.—Definitions

SECTION 1. This Act may be cited as the "Transportation Act, 1920."

SEC. 2. When used in this Act—

The term "Interstate Commerce Act" means the Act entitled "An Act to regulate commerce," approved February 4, 1887, as amended;

The term "Commerce Court Act" means the Act entitled "An Act to create a commerce court, and to amend an Act entitled 'An Act to regulate commerce,' approved February 4, 1887, as heretofore amended, and for other purposes," approved June 18, 1910;

The term "Federal Control Act" means the Act entitled "An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918, as amended;

The term "Federal control" means the possession, use, control, and operation of railroads and systems of transportation, taken over or assumed by the President under section 1 of the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes," approved August 29, 1916, or under the Federal Control Act; and

The term "Commission" means the Interstate Commerce Commission.

Title II.—Termination of Federal Control

SEC. 200. (A) Federal control shall terminate at 12.01 a. m., March 1, 1920; and the President shall then relinquish possession and control of all railroads and systems of trans-

portation then under Federal control and cease the use and operation thereof.

(b) Thereafter the President shall not have or exercise any of the powers conferred upon him by the Federal Control Act relating—

(1) To the use or operation of railroads or systems of transportation;

(2) To the control or supervision of the carriers owning or operating them, or of the business or affairs of such carriers;

(3) To their rates, fares, charges, classifications, regulations, or practices;

(4) To the purchase, construction, or other acquisition of boats, barges, tugs, and other transportation facilities on the inland, canal, or coastwise waterways; or (except in pursuance of contracts or agreements entered into before the termination of Federal control) of terminals, motive power, cars, or equipment, on or in connection with any railroad or system of transportation;

(5) To the utilization or operation of canals;

(6) To the purchase of securities of carriers, except in pursuance of contracts or agreements entered into before the termination of Federal control, or as a necessary or proper incident to the adjustment, settlement, liquidation and winding up of matters arising out of Federal control; or

(7) To the use for any of the purposes above stated (except in pursuance of contracts or agreements entered into before the termination of Federal control, and except as a necessary or proper incident to the winding up or settling of matters arising out of Federal control, and except as provided in section 202) of the revolving fund created by such Act, or of any of the additions thereto made under such Act, or by the Act entitled "An Act to supply a deficiency in the appropriation for carrying out the Act entitled 'An Act to provide for the operation of transporation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918," approved June 30, 1919.

(c) Nothing in this Act shall be construed as affecting or limiting the power of the President in time of war (under section 1 of the Act entitled "An Act making appropriations

for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes," approved August 29, 1916) to take possession and assume control of any system of transportation and utilize the same.

Government-Owned Boats on Inland Waterways

SEC. 201. (a) On the termination of Federal control, as provided in section 200, all boats, barges, tugs, and other transportation facilities, on the inland, canal, and coastwise waterways (hereinafter in this section called "transportation facilities") acquired by the United States in pursuance of the fourth paragraph of section 6 of the Federal Control Act (except the transportation facilities constituting parts of railroads or transportation systems over which Federal control was assumed) are transferred to the Secretary of War, who shall operate or cause to be operated such transportation facilities so that the lines of inland water transportation established by or through the President during Federal control shall be continued, and assume and carry out all contracts and agreements in relation thereto entered into by or through the President in pursuance of such paragraph prior to the time above fixed for such transfer. All payments under the terms of such contracts, and for claims arising out of the operation of such transportation facilities by or through the President prior to the termination of Federal control, shall be made out of moneys available under the provisions of this Act for adjusting, settling, liquidating, and winding up matters arising out of or incident to Federal control. Moneys required for such payments shall, from time to time, be transferred to the Secretary of War as required for payment under the terms of such contracts.

(b) All other payments after such transfer in connection with the construction, utilization, and operation of any such transportation facilities, whether completed or under construction, shall be made by the Secretary of War out of funds now or hereafter made available for that purpose.

(c) The Secretary of War is hereby authorized, out of any moneys hereafter made available therefor, to construct or

contract for the construction of terminal facilities for the interchange of traffic between the transportation facilities operated by him under this section and other carriers whether by rail or water, and to make loans for such purposes under such terms and conditions as he may determine to any State whose constitution prohibits the ownership of such terminal facilities by other than the State or a political subdivision thereof.

(d) Any transportation facilities owned by the United States and included within any contract made by the United States for operation on the Mississippi River above Saint Louis, the possession of which reverts to the United States at or before the expiration of such contract, shall be operated by the Secretary of War so as to provide facilities for water carriage on the Mississippi River above Saint Louis.

(e) The operation of the transportation facilities referred to in this section shall be subject to the provisions of the Interstate Commerce Act as amended by this Act or by subsequent legislation, and to the provisions of the "Shipping Act, 1916," as now or hereafter amended, in the same manner and to the same extent as if such transportation facilities were privately owned and operated; and all such vessels while operated and employed solely as merchant vessels shall be subject to all other laws, regulations, and liabilities governing merchant vessels, whether the United States is interested therein as owner, in whole or in part, or holds any mortgage, lien, or interest therein. For the performance of the duties imposed by this section the Secretary of War is authorized to appoint or employ such number of experts, clerks, and other employees as may be necessary for service in the District of Columbia or elsewhere, and as may be provided for by Congress.

Settlement of Matters Arising Out of Federal Control

Sec. 202. The President shall, as soon as practicable after the termination of Federal control, adjust, settle, liquidate, and wind up all matters, including compensation, and all questions and disputes of whatsoever nature, arising out of or incident to Federal control. For these purposes and

for the purpose of making the payments specified in subdivision (a) of section 201, all unexpended balances in the revolving fund created by the Federal Control Act or of the moneys appropriated by the Act entitled "An Act to supply a deficiency in the appropriation for carrying out the Act entitled 'An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918," approved June 30, 1919, are hereby reappropriated and made available until expended; and all moneys derived from the operation of the carriers or otherwise arising out of Federal control, and all moneys that have been or may be received in payment of the indebtedness of any carrier to the United States arising out of Federal control, shall be and remain available until expended for the aforesaid purposes; and there is hereby appropriated for the aforesaid purposes, out of any money in the Treasury not otherwise appropriated, $200,000,000 in addition to the above, to be available until expended.

Compensation of Carriers With Which No Contract Made

SEC. 203. (a) Upon the request of any carrier entitled to just compensation under the Federal Control Act, but with which no contract fixing or waiving compensation has been made and which has made no waiver of compensation, the President: (1) shall pay to it so much of the amount he may determine to be just compensation as may be necessary to enable such carrier to have the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of the standard contract between the United States and the carriers, accruing during the period for which such carrier is entitled to just compensation under the Federal Control Act, and also the sums required for dividends declared and paid during the same period, including, also, in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of the period for which the carrier is entitled to just compensation under the Federal Control Act bears to the last dividend period; and (2) may,

in his discretion, pay to such carrier the whole or any part of the remainder of such estimated amount of just compensation.

(b) The acceptance of any benefits by a carrier under this section—

(1) shall not deprive it of the right to claim additional compensation, which, unless agreed upon, shall be ascertained in the manner provided in section 3 of the Federal Control Act; but

(2) shall constitute an acceptance by the carrier of all the provisions of the Federal Control Act as modified by this Act, and obligate the carrier to pay to the United States with interest at the rate of 6 per centum per annum from a date or dates fixed in proceedings under section 3 of the Federal Control Act, the amount by which the sums received on account of such compensation, under this section or otherwise, exceed the sum found due in such proceedings.

Reimbursement of Deficits During Federal Control

Sec. 204. (a) When used in this section—

The term "carrier" means a carrier by railroad which during any part of the period of Federal control, engaged as a common carrier in general transportation, and competed for for traffic, or connected, with a railroad under Federal control, and which sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation; but does not include any street or interurban electric railway which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both; and

The term "test period" means the three years ending June 30, 1917.

(b) For the purposes of this section—

Railway operating income or any deficit therein for the period of Federal control shall be computed in a manner similar to that provided in section 209 with respect to such income or deficit for the guaranty period; and

Railway operating income or any deficit therein for the test period shall be computed in the manner provided in section 1 of the Federal Control Act.

(c) As soon as practicable after March 1, 1920, the Commission shall ascertain for every carrier, for every month of the period of Federal control during which its railroad or system of transportation was not under Federal operation, its deficit in railway operating income, if any, and its railway operating income, if any (hereinafter called "Federal control return"), and the average of its deficit in railway operating income, if any, and of its railway operating income, if any, for the three corresponding months of the test period taken together, (herinafter called "test period return"): *Provided*, That "test period return," in the case of a carrier which operated its railroad or system of transportation for at least one year during, but not for the whole of, the test period, means its railway operating income, or the deficit therein, for the corresponding month during the test period, or the average thereof for the corresponding months during the test period taken together, during which the carrier operated its railroad or system of transportation.

(d) For every month of the period of Federal control during which the railroad or system of transportation of the carrier was not under Federal operation, the Commission shall then ascertain (1) the difference between its Federal control return, if a deficit, and its test period return, if a smaller deficit, or (2) the difference between its test period return, if an income, and its Federal control return, if a smaller income, or (3) the sum of its Federal control return, if a deficit, plus its test period return, if an income. The sum of such amounts shall be credited to the carrier.

(e) For every such month the Commission shall then ascertain (1) the difference between the carrier's Federal control return, if an income, and its test period return, if a smaller income, or (2) the difference between its test period return, if a deficit, and its Federal control return, if a smaller deficit, or (3) the sum of its Federal control return, if an income, plus its test period return, if a deficit. The sum of such amounts shall be credited to the United States.

(f) If the sum of the amounts so credited to the carrier under subdivision (d) exceeds the sum of the amounts so credited to the United States under subdivision (e), the difference shall be payable to the carrier. In the case of a carrier which operated its railroad or system of transportation for less than a year during, or for none of, the test period, the foregoing computations shall not be used, but there shall be payable to such carrier its deficit in railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation.

(g) The Commission shall promptly certify to the Secretary of the Treasury the several amounts payable to carriers under paragraph (f). The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States for the amount shown in such certificate as payable thereto. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Inspection of Carriers' Records

SEC. 205. The President shall have the right, at all reasonable times until the affairs of Federal control are concluded, to inspect the property and records of all carriers whose railroads or systems of transportation were at any time under Federal control, whenever such inspection is necessary or appropriate (1) to protect the interests of the United States, or (2) to supervise matters being handled for the United States by agents of the carriers, or (3) to secure information concerning matters arising during Federal control, and such carriers shall provide all reasonable facilities therefor, including the issuance of free transportation to all agents of the President while traveling on official business for these purposes.

Such carriers shall, at their expense, upon the request of the President, or those duly authorized by him, furnish all necessary and proper information and reports compiled from the records made or kept during the period of Federal control affecting their respective lines, and shall keep and continue

such records and furnish like information and reports compiled therefrom.

Any carrier which refuses or obstructs such inspection, or which willfully fails to provide reasonable facilities therefor, or to furnish such information or reports shall be liable to a penalty of $500 for each day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action to be brought by the United States.

Causes of Action Arising Out of Federal Control

SEC. 206. (a) Actions at law, suits in equity and proceedings in admiralty, based on causes of action arising out of the possession, use, or operation by the President of the railroad or system of transportation of any carrier (under the provisions of the Federal Control Act, or of the Act of August 29, 1916) of such character as prior to Federal control could have been brought against such carrier, may, after the termination of Federal control, be brought against an agent designated by the President for such purpose, which agent shall be designated by the President within thirty days after the passage of this Act. Such actions, suits, or proceedings may, within the periods of limitation now prescribed by State or Federal statutes but not later than two years from the date of the passage of this Act, be brought in any court which but for Federal control would have had jurisdiction of the cause of action had it arisen against such carrier.

(b) Process may be served upon any agent or officer of the carrier operating such railroad or system of transportation, if such agent or officer is authorized by law to be served with process in proceedings brought against such carrier and if a contract has been made with such carrier by or through the President for the conduct of litigation arising out of operation during Federal control. If no such contract has been made process may be served upon such agents or officers as may be designated by or through the President. The agent designated by the President under subdivision (a) shall cause to be filed, upon the termination of Federal control.

in the office of the Clerk of each District Court of the United States, a statement naming all carriers with whom he has contracted for the conduct of litigation arising out of operation during Federal control, and a like statement designating the agents or officers upon whom process may be served in actions, suits, and proceedings arising in respect to railroads or systems of transportation with the owner of which no such contract has been made; and such statements shall be supplemented from time to time, if additional contracts are made or other agents or officers appointed.

(c) Complaints praying for reparation on account of damage claimed to have been caused by reason of the collection or enforcement by or through the President during the period of Federal control of rates, fares, charges, classifications, regulations, or practices (including those applicable to interstate, foreign or intrastate traffic) which were unjust, unreasonable, unjustly discriminatory, or unduly or unreasonably prejudicial, or otherwise in violation of the Interstate Commerce Act, may be filed with the Commission, within one year after the termination of Federal control, against the agent designated by the President under subdivision (a), naming in the petition the railroad or system of transportation against which such complaint would have been brought if such railroad or system had not been under Federal control at the time the matter complained of took place. The Commission is hereby given jurisdiction to hear and decide such complaints in the manner provided in the Interstate Commerce Act, and all notices and orders in such proceedings shall be served upon the agent designated by the President under subdivision (a).

(d) Actions, suits, proceedings, and reparation claims, of the character above described pending at the termination of Federal control shall not abate by reason of such termination, but may be prosecuted to final judgment, substituting the agent designated by the President under subdivision (a).

(e) Final judgments, decrees, and awards in actions, suits, proceedings, or reparation claims, of the character above described, rendered against the agent designated by the President under subdivision (a), shall be promptly paid out of the revolving fund created by section 210.

(f) The period of Federal control shall not be computed as a part of the periods of limitation in action against carriers or in claims for reparation to the Commission for causes of action arising prior to Federal control.

(g) No execution or process, other than on a judgment recovered by the United States against a carrier, shall be levied upon the property of any carrier where the cause of action on account of which the judgment was obtained grew out of the possession, use, control, or operation of any railroad or system of transportation by the President under Federal control.

Refunding of Carriers' Indebtedness to United States

SEC. 207. (a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier to the United States, which may exist at the termination of Federal control, incurred for additions and betterments made during Federal control and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3) may be set off against either or both of the amounts under clauses (1) and (2), so far as deemed wise by the President, but only to the extent permitted under any contract now or hereafter made between such carrier and the United States in respect to the matters of Federal control, or, where no such contract exists, to the extent permitted under paragraph (b) of section 7 of the standard contract between the United States and the carriers relative to deductions from compensation; *Provided*, That such right of set-off shall not be so exercised as to prevent such carrier from having the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of such standard contract, accruing during Federal control, and also the sums required for dividends declared and paid during Federal control, including, also in addition, a sum equal to that proportion of such last dividend which the period between its

payment and the termination of Federal control bears to the last regular dividend period: *And provided further*, That such right of set-off shall not be exercised unless there shall have first been paid such sums in addition as may be necessary to provide the carrier with working capital in amount not less than one twenty-fourth of its operating expenses for the calendar year 1919.

(b) Any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of ten years from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per centum per annum, payable semiannually, subject to the right of such carrier to pay, on any interest-payment day, the whole or any part of such indebtedness. Any carrier obtaining the funding of such indebtedness as aforesaid shall give, in the discretion of the President, such security, in such form and upon such terms, as he may prescribe.

(c) If the President and the various carriers, or any of them, shall enter into an agreement for funding, through the medium of car trust certificates, or otherwise, the indebtedness of any such carrier to the United States incurred for equipment ordered for the benefit of such carrier, such indebtedness so funded shall not be refundable under the foregoing provisions.

(d) Any other indebtedness of any such carrier to the United States which may exist after the settlement of accounts between the United States and the carrier and is then due shall be evidenced by notes payable in one year from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per centum per annum, and secured by such collateral security as the President may deem it advisable to require.

(e) With respect to any bonds, notes, or other securities, acquired under the provisions of this section or of the Federal Control Act or of the Act entitled "An Act to provide for the reimbursement of the United States for motive power, cars and other equipment ordered for railroads and systems of transportation under Federal control, and for other pur-

poses," approved November 19, 1919, the President shall have the right to make such arrangements for extension of the time of payment or for for the exchange of any of them for other securities, or partly for cash and partly for securities, as may be provided for in any agreement entered into by him or as may in his judgment seem desirable.

(f) Carriers may, by agreement with the President, issue notes or other evidences of indebtedness, secured by equipment trust agreements, for equipment purchased during Federal control by or through the President under section 6 of the Federal Control Act, and allocated to such carriers respectively; and the filing of such equipment trust agreements with the Commission shall constitute notice thereof to all the world.

(g) A carrier may issue evidences of indebtedness pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

Existing Rates to Continue in Effect

SEC. 208. (a) All rates, fares, and charges, and all classifications, regulations, and practices, in any wise changing, affecting, or determining, any part of the aggregate of rates, fares, or charges, or the value of the service rendered, which on February 29, 1920, are in effect on the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by State or Federal authority, respectively, or pursuant to authority of law; but prior to September 1, 1920, no such rate, fare, or charge shall be reduced, and no such classification, regulation, or practice shall be changed in such manner as to reduce any such rate, fare, or charge, unless such reduction or change is approved by the Commission.

(b) All divisions of joint rates, fares, or charges, which on February 29, 1920, are in effect between the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by mutual agreement between the interested carriers or by State or Federal authorities, respectively.

(c) Any land grant railroad organized under the Act of July 28, 1866 (chapter 300), shall receive the same compensation for transportation of property and troops of the United States as is paid to land grant railroads organized under the Land Grant Act of March 3, 1863, and the Act of July 27, 1866 (chapter 278).

Guaranty to Carriers After Termination of Federal Control

SEC. 209. (a) When used in this section—

The term "carrier" means (1) a carrier by railroad or partly by railroad and partly by water, whose railroad or system of transportation is under Federal control at the time Federal control terminates, or which has heretofore engaged as a common carrier in general transportation and competed for traffic, or connected, with a railroad at any time under Federal control; and (2) a sleeping car company whose system of transportation is under Federal control at the time Federal control terminates; but does not include a street or interurban electric railway not under Federal control at the time Federal control terminates, which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both;

The term "guaranty period" means the six months beginning March 1, 1920.

The term "test period" means the three years ending June 30, 1917; and

The term "railway operating income" and other references to accounts of carriers by railroad shall, in the case of a sleeping car company, be construed as indicating the appropriate corresponding accounts in the accounting system prescribed by the Commission.

(b) This section shall not be applicable to any carrier which does not on or before March 15, 1920, file with the Commission a written statement that it accepts all the provisions of this section.

(c) The United States hereby guarantees—

(1) With respect to any carrier with which a contract (exclusive of so-called cooperative contracts or waivers) has been made fixing the amount of just compensation under

the Federal Control Act, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the amount named in such contract as annual compensation, or, where the contract fixed a lump sum as compensation for the whole period of Federal operation, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than an amount which shall bear the same proportion to the lump sum so fixed as six months bears to the number of months during which such carrier was under Federal operation, including in both cases the increases in such compensation provided for in section 4 of the Federal Control Act;

(2) With respect to any carrier entitled to just compensation under the Federal Control Act, with which such a contract has not been made, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President as just compensation for such carrier under the Federal Control Act, including the increases in such compensation provided for in section 4 of the Federal Control Act. If any such carrier does not accept the President's estimate respecting its just compensation, and if in proceedings under section 3 of the Federal Control Act it is determined that a larger or smaller annual amount is due as just compensation, the guaranty under this paragraph shall be increased or decreased accordingly;

(3) With respect to any carrier, whether or not entitled to just compensation under the Federal Control Act, with which such a contract has not been made, and for which no estimate of just compensation is made by the President, and which for the test period as a whole sustained a deficit in railway operating income, the guaranty shall be a sum equal to (a) the amount by which any deficit in its railway operating income for the guaranty period as a whole exceeds one-half of its average annual deficit in railway operating income for the test period, plus (b) an amount equal to one-half the annual sum fixed by the President under section 4 of the Federal Control Act;

(4) With respect to any carrier not entitled to just compensation under the Federal Control Act, which for the

test period as a whole had an average annual railway operating income, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the average annual railway operating income of such carrier during the test period.

(d) If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (1), (2), or (4) of subdivision (c) is in excess of the minimum railway operating income guaranteed in such paragraph, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (3) of subdivision (c) is in excess of one-half of the annual sum fixed by the President with respect to such carrier under section 4 of the Federal Control Act, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. The amounts so paid into the Treasury of the United States shall be added to the funds made available under section 202 for the purposes indicated in such section. Notwithstanding the provisions of this subdivision, any carrier may retain out of any such excess any amount necessary to enable it to pay its fixed charges accruing during the guaranty period.

(e) For the purposes of this section railway operating income, or any deficit therein, for the test period shall be computed in the manner provided for in section 1 of the Federal Control Act.

(f) In computing railway operating income, or any deficit therein, for the guaranty period for the purposes of this section—

(1) Debits and credits arising from the accounts, called in the monthly reports to the Commission equipment rents and joint facility rents, shall be included, but debits and credits arising from the operation of such street electric passenger railways, including railways commonly called interurbans, as are not under Federal control at the time of termination thereof, shall be excluded;

(2) Proper adjustments shall be made (a) in case any lines which were, during any portion of the period of Federal

control, a part of the railroad or system of transportation of the carrier, and whose railway operating income was included in such income of the carrier for the test period, do not continue to be a part of such railroad or system of transportation during the entire guaranty period, and (b) in case of any lines acquired by, leased to, or consolidated with, the railroad or system of transportation of the carrier at any time since the end of the test period and prior to the expiration of the guaranty period, for which separate operating returns to the Commission are not made in respect to the entire portion of the guaranty period;

(3) There shall not be included in operating expenses, for maintenance of way and structures, or for maintenance of equipment, more than an amount fixed by the Commission. In fixing such amount the Commission shall so far as practicable apply the rule set forth in the proviso in paragraph (a) of section 5 of the "standard contract" between the United States and the carriers (whether or not such contract has been entered into with the carrier whose railway operating income is being computed);

(4) There shall not be included any taxes paid under Title I or II of the Revenue Act of 1917, or such portion of the taxes paid under Title II or III of the Revenue Act of 1918 as by the terms of such Act are to be treated as levied by an Act in amendment of Title I or II of the Revenue Act of 1917; and

(5) The Commission shall require the elimination and restatement of the operating expenses and revenues (other than for maintenance of way and structures, or maintenance of equipment) for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period.

(g) The Commission shall, as soon as practicable after the expiration of the guaranty period, ascertain and certify to the Secretary of the Treasury the several amounts necessary to make good the foregoing guaranty to each carrier. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such

carrier upon the Treasury of the United States, for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

(h) Upon application of any carrier to the Commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its fixed charges and operating expenses, the Commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by the carrier of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this section such carrier will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per centum per annum from the time such excess was paid. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

(i) If the American Railway Express Company shall, on or before March 15, 1920, file with the Commission a written statement that it accepts all the provisions of this subdivision, the contract of June 26, 1918, between such company and the Director General of Railroads, as amended and continued by agreement dated November 21, 1918, shall remain in full force and effect during the guaranty period in so far as the same constitutes a guaranty on the part of the United States to such company against a deficit in operating income.

In computing operating income, and any deficit therein, for the guaranty period for the purposes of this subdivision, the Commission shall require the elimination and restatement of the operating expenses and revenues for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues

for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period, and to exclude from operating expenses so much of the charge for payment for express privileges to carriers on whose lines the express traffic is carried as is in excess of 50.25 per centum of gross express revenue.

For the guaranty period the American Railway Express Company shall pay to every carrier which accepts the provisions of this section, as provided in subdivision (b) hereof, 50.25 per centum of the gross revenue earned on the transportation of all its express traffic on the carrier's lines, and every such carrier shall accept from the American Railway Express Company such percentage of the gross revenue as its compensation. In arriving at the gross revenue on through or joint express traffic, the method of dividing the revenue between the carriers shall be that agreed upon between the carriers and such express company and approved by the Commission.

If for the guaranty period as a whole the American Railway Express Company does not have a deficit in operating income, it shall forthwith pay the amount of its operating income for such period into the Treasury of the United States. The amount so paid shall be added to the funds made available under section 202 for the purposes indicated in such section.

The Commission shall, as soon as practicable after the expiration of the guaranty period, certify to the Secretary of the Treasury the amount necessary to make good the foregoing guaranty to the American Railway Express Company. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of such company upon the Treasury of the United States for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Upon application of the American Railway Express Company to the Commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to

meet its operating expenses, the Commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by such company of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this subdivision such company will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per centum per annum from the time such excess was paid. There is hereby appropriated out of any money in the Treasury not otherwise appropriated a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

New Loans to Railroads

SEC. 210. (a) For the purpose of enabling carriers by railroad subject to the Interstate Commerce Act properly to serve the public during the transition period immediately following the termination of Federal control, any such carrier may, at any time after the passage of this Act and before the expiration of two years after the termination of Federal control, make application to the Commission for a loan from the United States, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the Commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the Commission may deem pertinent to the inquiry.

(b) If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan by the United States is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonble assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the Commission may certify to the Secretary of the Treasury its findings of fact and its recommendations as to: the amount of the loan which is to be made; the time, not exceeding five years from the making thereof, within which it is to be repaid; the charaeter of the security which is to be offered therefor; and the terms and conditions of the loan.

(c) Upon receipt of such certificate from the Commission, the Secretary of the Treasury, at any time before the expiration of twenty-six months after the termination of Federal control, is authorized to make a loan, not exceeding the maximum amount recommended in such certifieate, out of any moneys in the revolving fund provided for in this section. All such loans shall bear interest at the rate of 6 per centum per annum, payable semiannually to the Secretary of the Treasury and to be placed to the credit of the revolving fund provided for in this section. The time, not exceeding five years from the making thereof, within which such loan is to be repaid, the security which is to be taken therefor, which shall be adequate to secure the loan, the terms and eonditions of the loan, and the form of the obligation to be entered into, shall be prescribed by the Secretary of the Treasury.

(d) The Commission or the Secretary of the Treasury may call upon the Federal Reserve Board for advice and assistance with respect to any such application or loan.

(e) There is hereby appropriated out of any moneys in the Treasury not otherwise appropriated the sum of $300,000,000, which shall be used as a revolving fund for the purpose of making the loans provided for in this section, and for paying the judgments, decrees, and awards referred to in subdivision (e) of section 206.

(f) A carrier may issue evidences of indebtedness to the United States pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

Execution of Powers of President

SEC. 211. All powers and duties conferred or imposed upon the President by the preceding sections of this Act, except the designation of the agent under section 206, may be executed by him through such agency or agencies as he may determine.

Title III.—Disputes Between Carriers and Their Employees and Subordinate Officials

Sec. 300. When used in this title—

(1) The term "carrier" includes any express company, sleeping car company, and any carrier by railroad, subject to the Interstate Commerce Act, except a street, interurban, or suburban electric railway not operating as a part of a general steam railroad system of transportation;

(2) The term "Adjustment Board" means any Railroad Board of Labor Adjustment established under section 302;

(3) The term "Labor Board" means the Railroad Labor Board;

(4) The term "commerce" means commerce among the several States or between any State, Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of Columbia and any State, or between any Territory and any other Territory, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation; and

(5) The term "subordinate official" includes officials of carriers of such class or rank as the Commission shall designate by regulation formulated and issued after such notice and hearing as the Commission may prescribe, to the carriers, and employees and subordinate officials of carriers, and organizations thereof, directly to be affected by such regulations.

SEC. 301. It shall be the duty of all carriers and their officers, employees, and agents to exert every reasonable effort and adopt every available means to avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers, or the employees or subordinate officials thereof, directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute.

SEC. 302. Railroad Boards of Labor Adjustment may be established by agreement between any carrier, group of carriers, or the carriers as a whole, and any employees or subordinate officials of carriers, or organization or group of organizations thereof.

SEC. 303. Each such Adjustment Board shall, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon the written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, (3) upon the Adjustment Board's own motion, or (4) upon the request of the Labor Board whenever such board is of the opinion that the dispute is likely substantially to interrupt commerce, receive for hearing, and as soon as practicable and with due diligence, decide any dispute involving only grievances, rules, or working conditions, not decided as provided in section 301, between the carrier and its employees or subordinate officials, who are, or any organization thereof which is, in accordance with the provisions of section 302, represented upon any such Adjustment Board.

SEC. 304. There is hereby established a board to be known as the "Railroad Labor Board" and to be composed of nine members as follows:

(1) Three members constituting the labor group, representing the employees and subordinate officials of the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by such employees in such manner as the Commission shall by regulation prescribe;

(2) Three members, constituting the management group, representing the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by the carriers in such manner as the Commission shall by regulation prescribe; and

(3) Three members, constituting the public group, representing the public, to be appointed directly by the President, by and with the advice and consent of the Senate.

Any vacancy on the Labor Board shall be filled in the same manner as the original appointment.

SEC. 305. If either the employees or the carriers fail to make nominations and offer nominees in accordance with the regulations of the Commission, as provided in paragraphs (1) and (2) of section 304, within thirty days after the passage of this Act in case of any original appointment to the office of member of the Labor Board, or in case of a vacancy in any such office within fifteen days after such vacancy occurs, the President shall thereupon directly make the appointment, by and with the advice and consent of the Senate. In making any such appointment the President shall, as far as he deems it practicable, select an individual associated in interest with the carriers or employees thereof, whichever he is to represent.

SEC. 306. (a) Any member of the Labor Board who during his term of office is an active member or in the employ of or holds any office in any organization of employees or subordinate officials, or any carrier, or owns any stock or bond thereof, or is pecuniarily interested therein, shall at once become ineligible for further membership upon the Labor Board; but no such member is required to relinquish honorary member-

ship in, or his rights in any insurance or pension or other benefit fund maintained by, any organization of employees or subordinate officials or by a carrier.

(b) Of the original members of the Labor Board, one from each group shall be appointed for a term of three years, one for two years, and one for one year. Their successors shall hold office for terms of five years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Each member shall receive from the United States an annual salary of $10,000. A member may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

SEC. 307. (a) The Labor Board shall hear, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions, in respect to which any Adjustment Board certifies to the Labor Board that in its opinion the Adjustment Board has failed or will fail to reach a decision within a reasonable time, or in respect to which the Labor Board determines that any Adjustment Board has so failed or is not using due diligence in its consideration thereof. In case the appropriate Adjustment Board is not organized under the provisions of section 302, the Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions which is not decided as provided in section 301 and which such Adjustment Board would be required to receive for hearing and decision under the provisions of section 303.

(b) The Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor

Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries of employees or subordinate officials of carriers, not decided as provided in section 301. The Labor Board may upon its own motion within ten days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier. The Labor Board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

(c) A decision by the Labor Board under the provisions of paragraphs (a) or (b) of this section shall require the concurrence therein of at least 5 of the 9 members of the Labor Board: *Provided*, That in case of any decision under paragraph (b), at least one of the representatives of the public shall concur in such decision. All decisions of the Labor Board shall be entered upon the records of the board and copies thereof, together with such statement of facts bearing thereon as the board may deem proper, shall be immediately communicated to the parties to the dispute, the President, each Adjustment Board, and the Commission, and shall be given further publicity in such manner as the Labor Board may determine.

(d) All the decisions of the Labor Board in respect to wages or salaries and of the Labor Board or an Adjustment Board in respect to working conditions of employees or subordinate officials of carriers shall establish rates of wages and salaries and standards of working conditions which in the opinion of the board are just and reasonable. In determining the justness and reasonableness of such wages and salaries or working conditions the board shall, so far as applicable, take into consideration among other relevant circumstances:

(1) The scales of wages paid for similar kinds of work in other industries;

(2) The relation between wages and the cost of living;

(3) The hazards of the employment;

(4) The training and skill required;

(5) The degree of responsibility;

(6) The character and regularity of the employment; and

(7) Inequalities of increases in wages or of treatment, the result of previous wage orders or adjustments.

SEC. 308. The Labor Board—

(1) Shall elect a chairman by majority vote of its members;

(2) Shall maintain central offices in Chicago, Illinois, but the Labor Board may, whenever it deems it necessary, meet at such other place as it may determine;

(3) Shall investigate and study the relations between carriers and their employees, particularly questions relating to wages, hours of labor, and other conditions of employment and the respective privileges, rights, and duties of carriers and employees, and shall gather, compile, classify, digest, and publish, from time to time, data and information relating to such questions to the end that the Labor Board may be properly equipped to perform its duties under this title and that the members of the Adjustment Boards and the public may be properly informed;

(4) May make regulations necessary for the efficient execution of the functions vested in it by this title; and

(5) Shall at least annually collect and publish the decisions and regulations of the Labor Board and the Adjustment Boards and all court and administrative decisions and regulations of the Commission in respect to this title, together with a cumulative index-digest thereof.

SEC. 309. Any party to any dispute to be considered by an Adjustment Board or by the Labor Board shall be entitled to a hearing either in person or by counsel.

SEC. 310. (a) For the efficient administration of the functions vested in the Labor Board by this title, any member thereof may require, by subpœna issued and signed by himself, the attendance of any witness and the production of any book, paper, document, or other evidence from any place in the United States at any designated place of hearing, and the taking of a deposition before any designated person having power to administer oaths. In the case of a deposition the testimony shall be reduced to writing by the person taking

the deposition or under his direction, and shall then be subscribed to by the deponent. Any member of the Labor Board may administer oaths and examine any witness. Any witness summoned before the board and any witness whose deposition is taken shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) In case of failure to comply with any subpœna or in case of the contumacy of any witness appearing before the Labor Board, the board may invoke the aid of any United States district court. Such court may thereupon order the witness to comply with the requirements of such subpœna, or to give evidence touching the matter in question, as the case may be. Any failure to obey such order may be punished by such court as a contempt thereof.

(c) No person shall be excused from so attending and testifying or deposing, nor from so producing any book, paper, document, or other evidence on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, as to which in obedience to a subpœna and under oath, he may so testify or produce evidence, documentary or otherwise. But no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 311. (a) When necessary to the efficient administration of the functions vested in the Labor Board by this title, any member, officer, employee, or agent thereof, duly authorized in writing by the board, shall at all reasonable times for the purpose of examination have access to and the right to copy any book, account, record, paper, or correspondence relating to any matter which the board is authorized to consider or investigate. Any person who upon demand refuses any duly authorized member, officer, employee, or agent of the Labor Board such right of access or copying, or hinders, obstructs, or resists him in the exercise of such right, shall upon conviction thereof be liable to a penalty of $500 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. Such penalty

shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) Every officer or employee of the United States, whenever requested by any member of the Labor Board or an Adjustment Board duly authorized by the board for the purpose, shall supply to such board any data or information pertaining to the administration of the functions vested in it by this title, which may be contained in the records of his office.

(c) The President is authorized to transfer to the Labor Board any books, papers, or documents pertaining to the administration of the functions vested in the board by this title, which are in the possession of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act and which are no longer necessary to the administration of the affairs of such agency.

SEC. 312. Prior to September 1, 1920, each carrier shall pay to each employee or subordinate official thereof wages or salary at a rate not less than that fixed by the decision of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act, in effect in respect to such employee or subordinate official immediately preceding 12.01 a. m. March 1, 1920. Any carrier acting in violation of any provision of this section shall upon conviction thereof be liable to a penalty of $100 for each such offense. Each such action with respect to any such employee or subordinate official and each day or portion thereof during which the offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 313. The Labor Board, in case it has reason to believe that any decision of the Labor Board or of an Adjustment Board is violated by any carrier, or employee or subordinate official, or organization thereof, may upon its own motion after due notice and hearing to all persons directly interested in such violation, determine whether in its opinion such viola-

tion has occurred and make public its decision in such manner as it may determine.

SEC. 314. The Labor Board may (1) appoint a secretary, who shall receive from the United States an annual salary of $5,000; and (2) subject to the provisions of the civil-service laws, appoint and remove such officers, employees, and agents; and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses, including salaries, traveling expenses of its members, secretary, officers, employees, and agents, and witness fees, as are necessary for the efficient execution of the functions vested in the board by this title and as may be provided for by Congress from time to time. All of the expenditures of the Labor Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the Labor Board.

SEC. 315. There is hereby appropriated for the fiscal year ending June 30, 1920, out of any money in the Treasury not otherwise appropriated, the sum of $50,000, or so much thereof as may be necessary, to be expended by the Labor Board, for defraying the expenses of the maintenance and establishment of the board, including the payment of salaries as provided in this title.

SEC. 316. The powers and duties of the Board of Mediation and Conciliation created by the Act approved July 15, 1913, shall not extend to any dispute which may be received for hearing and decision by any Adjustment Board or the Labor Board.

Title IV.—Amendments to Interstate Commerce Act

SEC. 400. The first four paragraphs of section 1 of the Interstate Commerce Act, as such paragraphs appear in section 7 of the Commerce Court Act, are hereby amended to read as follows:

"(1) That the provisions of this Act shall apply to common carriers engaged in—

"(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when

both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

"(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water; or

"(c) The transmission of intelligence by wire or wireless;—

from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only in so far as such transportation or transmission takes place within the United States.

"(2) The provisions of this Act shall also apply to such transportation of passengers and property and transmission of intelligence, but only in so far as such transportation or transmission takes place within the United States, but shall not apply—

"(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid;

"(b) To the transmission of intelligence by wire or wireless wholly within one State and not transmitted to or from a foreign country from or to any place in the United States as aforesaid; or

"(c) To the transportation of passengers or property by a carrier by water where such transportation would not be subject to the provisions of this Act except for the fact that such carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, any switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district.

"(3) The term 'common carrier' as used in this Act shall include all pipe-line companies; telegraph, telephone, and cable companies operating by wire or wireless; express com-

panies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation or transmission as aforesaid as common carriers for hire. Wherever the word 'carrier' is used in this Act it shall be held to mean 'common carrier.' The term 'railroad' as used in this Act shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term 'transportation' as used in this Act shall include locomotives, cars, and other vehicles, vessels and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term 'transmission' as used in this Act shall include the transmission of intelligence through the application of electrical energy or other use of electricity, whether by means of wire, cable, radio apparatus, or other wire or wireless conductors or appliances, and all instrumentalities and facilities for and services in connection with the receipt, forwarding, and delivery of messages, communications, or other intelligence so transmitted, hereinafter also collectively called messages.

"(4) It shall be the duty of every common carrier subject to this Act engaged in the transportation of passengers or property to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates, fares, and charges applicable thereto, and to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof as between the

carriers subject to this Act participating therein which shall not unduly prefer or prejudice any of such participating carriers.

"(5) All charges made for any service rendered or to be rendered in the transportation of passengers or property or in the transmission of intelligence by wire or wireless as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful: *Provided*, That messages by wire or wireless subject to the provisions of this Act may be classified into day, night, repeated, unrepeated, letter, commercial, press, Government, and such other classes as are just and reasonable, and different rates may be charged for the different classes of messages: *And provided further*, That nothing in this Act shall be construed to prevent telephone, telegraph, and cable companies from entering into contracts with common carriers for the exchange of services.

"(6) It is hereby made the duty of all common carriers subject to the provisions of this Act to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to provisions of this Act which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this Act upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful."

SEC. 401. The fifth, sixth, and seventh paragraphs of section 1 of the Interstate Commerce Act, as such paragraphs appear in section 7 of the Commerce Court Act, are hereby amended by inserting "(7)" at the beginning of such

fifth paragraph, "(8)" at the beginning of such sixth paragraph, and "(9)" at the beginning of such seventh paragraph.

SEC. 402. The paragraphs added to section 1 of the Interstate Commerce Act by the Act entitled "An Act to amend an Act entitled 'An Act to regulate commerce,' as amended, in respect of car service, and for other purposes," approved May 29, 1917, are hereby amended to read as follows:

"(10) The term 'car service' in this Act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this act.

"(11) It shall be the duty of every carrier by railroad subject to this Act to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

"(12) It shall also be the duty of every carrier by railroad to make just and reasonable distribution of cars for transportation of coal among the coal mines served by it, whether located upon its line or lines or customarily dependent upon it for car supply. During any period when the supply of cars available for such service does not equal the requirements of such mines it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such mines and to count each and every car furnished to or used by any such mine for transportation of coal against the mine. Failure or refusal so to do shall be unlawful, and in respect of each car not so counted shall be deemed a separate offense, and the carrier, receiver, or operating trustee so failing or refusing shall forfeit to the Unites States the sum of $100 for each offense, which may be recovered in a civil action brought by the United States.

"(13) The Commission is hereby authorized by general or special orders to require all carriers by railroad subject to this Act, or any of them, to file with it from time to time

their rules and regulations with respect to car service, and the Commission may, in its discretion, direct that such rules and regulations shall be incorporated in their schedules showing rates, fares, and charges for transportation, and be subject to any or all of the provisions of this Act relating thereto.

"(14) The Commission may, after hearing, on a complaint or upon its own initiative without complaint, establish reasonable rules, regulations, and practices with respect to car service by carriers by railroad subject to this Act, including the compensation to be paid for the use of any locomotive, car, or other vehicle not owned by the carrier using it, and the penalties or other sanctions for nonobservance of such rules, regulations or practices.

"(15) Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in any section of the country, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the Commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just

and reasonable; and (d) to give directions for preference or priority in transportation, embargoes, or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend, or annul them. In time of war or threatened war the President may certify to the Commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the Commission shall, under the power herein conferred, direct that such preference or priority be afforded.

"(16) Whenever the Commission is of opinion that any carrier by railroad subject to this Act is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15), make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over other lines of roads, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable.

"(17) The directions of the Commission as to car service and to the matters referred to in paragraphs (15) and (16) may be made through and by such agents or agencies as the Commission shall designate and appoint for that purpose. It shall be the duty of all carriers by railroad subject to this Act, and of their officers, agents, and employees, to obey strictly and conform promptly to such orders or directions of the Commission, and in case of failure or refusal on the part of any carrier, receiver, or operating trustee to comply with any such order or direction such carrier, receiver, or trustee shall be liable to a penalty of not less than $100 nor more than $500 for each such offense and $50 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States: *Provided, however*, That nothing in this Act shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service

for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this Act.

"(18) After ninety days after this paragraph takes effect no carrier by railroad subject to this Act shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this Act over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this Act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment.

"(19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe, and the provisions of this Act shall apply to all such proceedings. Upon receipt of any application for such certificate the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

"(20) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the

issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than $5,000 or by imprisonment for not more than three years, or both.

"(21) The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this Act, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this Act, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this Act which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall be liable to a penalty of $100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(22) The authority of the Commission conferred by paragraphs (18) to (21), both inclusive, shall not extend

to the construction or abandonment of spur, industrial, team, switching or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation."

SEC. 403. The fifteenth and sixteenth paragraphs of section 1 of the Interstate Commerce Act, added to such section by the Act entitled "An Act to amend the Act to regulate commerce, as amended, and for other purposes," approved August 10, 1917, are hereby amended by inserting "(23)" at the beginning of such fifteenth paragraph and "(24)" at the beginning of such sixteenth paragraph.

SEC. 404. Section 2 of the Interstate Commerce Act is hereby amended to read as follows:

"SEC. 2. That if any common carrier subject to the provisions of this Act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property or the transmission of intelligence, subject to the provisions of this Act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation or transmission of a like kind of traffic or message under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful."

SEC. 405. The first paragraph of section 3 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning thereof.

Section 3 of the Interstate Commerce Act is hereby amended by adding after the first paragraph a new paragraph to read as follows:

"(2) From and after July 1, 1920, no carrier by railroad subject to the provisions of this Act shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to assure prompt payment of all such rates and charges and to prevent unjust discrim-

ination: *Provided*, That the provisions of this paragraph shall not be construed to prohibit any carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia."

The second paragraph of section 3 of the Interstate Commerce Act is hereby amended to read as follows:

"(3) All carriers, engaged in the transportation of passengers or property, subject to the provisions of this Act, shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines and those connecting therewith, and shall not discriminate in their rates, fares, and charges between such connecting lines, or unduly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper.

"(4) If the Commission finds it to be in the public interest and to be practicable, without substantially impairing the ability of a carrier owning or entitled to the enjoyment of terminal facilities to handle its own business, it shall have power to require the use of any such terminal facilities, including main-line track or tracks for a reasonable distance outside of such terminal, of any carrier, by another carrier or other carriers, on such terms and for such compensation as the carriers affected may agree upon, or, in the event of a failure to agree, as the Commission may fix as just and reasonable for the use so required, to be ascertained on the principle controlling compensation in condemnation proceedings. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to another carrier or other carriers, and the carrier whose terminal facilities are required to be so used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to another carrier or other carriers shall be entitled to recover, by suit or action against

such other carrier or carriers, proper damages for any injuries sustained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be."

SEC. 406. Section 4 of the Interstate Commerce Act is hereby amended to read as follows:

"SEC. 4. (1) That it shall be unlawful for any common carrier subject to the provisions of this Act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this Act, but this shall not be construed as authorizing any common carrier within the terms of this Act to charge or receive as great compensation for a shorter as for a longer distance: *Provided*, That upon application to the Commission such common carrier may in special cases, after investigation, be authorized by the Commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section; but in exercising the authority conferred upon it in this proviso the Commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed; and if a circuitous rail line or route is, because of such circuity, granted authority to meet the charges of a more direct line or route to or from competitive points and to maintian higher charges to or from intermediate points on its line, the authority shall not include intermediate points as to which the haul of the petitioning line or route is not longer than that of the direct line or route between the competitive points; and no such authorization shall be granted on account of merely potential water competition not actually in existence: *And provided further*, That rates, fares, or charges existing at the time of the passage of this amendatory Act by virtue of orders of the Commission or as to which application has theretofore been filed

with the Commission and not yet acted upon, shall not be required to be changed by reason of the provisions of this section until the further order of or a determination by the Commission.

"(2) Wherever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points it shall not be permitted to increase such rates unless after hearing by the Commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition."

SEC. 407. The first paragraph of section 5 of the Interstate Commerce Act is hereby amended to read as follows:

"SEC. 5. (1) That, except upon specific approval by order of the Commission as in this section provided, and except as provided in paragraph (16) of section 1 of this Act, it shall be unlawful for any common carrier subject to this Act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid each day of its continuance shall be deemed a separate offense: *Provided*, That whenever the Commission is of opinion, after hearing upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this Act, or upon its own initiative, that the division of their traffic or earnings, to the extent indicated by the Commission, will be in the interest of better service to the public, or economy in operation, and will not unduly restrain competition, the Commission shall have authority by order to approve and authorize, if assented to by all the carriers involved, such division of traffic or earnings, under such rules and regulations, and for such consideration as between such carriers and upon such terms and conditions, as shall be found by the Commission to be just and reasonable in the premises.

"(2) Whenever the Commission is of opinion, after hearing, upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this

Act, that the acquisition, to the extent indicated by the Commission, by one of such carriers of the control of any other such carrier or carriers either under a lease or by the purchase of stock or in any other manner not involving the consolidation of such carriers into a single system for ownership and operation, will be in the public interest, the Commission shall have authority by order to approve and authorize such acquisition, under such rules and regulations and for such consideration and on such terms and conditions as shall be found by the Commission to be just and reasonable in the premises.

"(3) The Commission may from time to time, for good cause shown, make such orders, supplemental to any order made under paragraph (1) or (2), as it may deem necessary or appropriate.

"(4) The Commission shall as soon as practicable prepare and adopt a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. In the division of such railways into such systems under such plan, competition shall be preserved as fully as possible and wherever practicable the existing routes and channels of trade and commerce shall be maintained. Subject to the foregoing requirements, the several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the values of the properties through which the service is rendered shall be the same, so far as practicable, so that these systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties.

"(5) When the Commission has agreed upon a tentative plan, it shall give the same due publicity and upon reasonable notice, including notice to the Governor of each State, shall hear all persons who may file or present objections thereto. The Commission is authorized to prescribe a procedure for such hearings and to fix a time for bringing them to a close. After the hearings are at an end, the Commission shall adopt a plan for such consolidation and publish the same; but it may at any time thereafter, upon its own motion or upon application, reopen the subject for such

changes or modifications as in its judgment will promote the public interest. The consolidations herein provided for shall be in harmony with such plan.

"(6) It shall be lawful for two or more carriers by railroad, subject to this Act, to consolidate their properties or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership, management, and operation, under the following conditions:

"(a) The proposed consolidation must be in harmony with and in furtherance of the complete plan of consolidation mentioned in paragraph (5) and must be approved by the Commission;

"(b) The bonds at par of the corporation which is to become the owner of the consolidated properties, together with the outstanding capital stock at par of such corporation, shall not exceed the value of the consolidated properties as determined by the Commission. The value of the properties sought to be consolidated shall be ascertained by the Commission under section 19a of this Act, and it shall be the duty of the Commission to proceed immediately to the ascertainment of such value for the properties involved in a proposed consolidation upon the filing of the application for such consolidation.

"(c) Whenever two or more carriers propose a consolidation under this section, they shall present their application therefore to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties sought to be consolidated is situated and the carriers involved in the proposed consolidation, of the time and place for a public hearing. If after such hearing the Commission finds that the public interest will be promoted by the consolidation and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, with such modifications and upon such terms and conditions as it my prescribe, and thereupon such consolidation may be effected, in accordance with such order, if all the carriers involved assent thereto, the law of any State or the decision or order of any State authority to the contrary notwithstanding

"(7) The power and authority of the Commission to approve and authorize the consolidation of two or more carriers shall extend and apply to the consolidation of four express companies into the American Railway Express Company, a Delaware corporation, if application for such approval and authority is made to the Commission within thirty days after the passage of this amendatory Act; and pending the decision of the Commission such consolidation shall not be dissolved.

"(8) The carriers affected by any order made under the foregoing provisions of this section and any corporation organized to effect a consolidation approved and authorized in such order shall be, and they are hereby, relieved from the operation of the 'antitrust laws,' as designated in section 1 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, and of all other restraints or prohibitions by law, State or Federal, in so far as may be necessary to enable them to do anything authorized or required by any order made under and pursuant to the foregoing provisions of this section."

SEC. 408. The paragraph of section 5 of the Interstate Commerce Act, added to such section by section 11 of the Act entitled "An Act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone," approved August 24, 1912, is hereby amended by inserting "(9)" at the beginning thereof.

The two paragraphs of section 11 of such Act of August 24, 1912, which follow the paragraph added by such section to section 5 of the Interstate Commerce Act, are hereby made a part of section 5 of the Interstate Commerce Act. The first paragraph so made a part of section 5 of the Interstate Commerce Act is hereby amended by inserting "(10)" at the beginning thereof, and the second such paragraph is hereby amended by inserting "(11)" at the beginning thereof.

SEC. 409. Section 6 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph, "(2)" at the beginning of the second paragraph, "(3)" at the beginning

of the third paragraph, "(4)" at the beginning of the fourth paragraph, "(5)" at the beginning of the fifth paragraph, "(6)" at the beginning of the sixth paragraph, "(7)" at the beginning of the seventh paragraph, "(8)" at the beginning of the eighth paragraph, "(9)" at the beginning of the ninth paragraph, "(10)" at the beginning of the tenth paragraph, "(11)" at the beginning of the eleventh paragraph, "(12)" at the beginning of the twelfth paragraph, and "(13)" at the beginning of the thirteenth paragraph.

SEC. 410. The third paragraph of section 6 of the Interstate Commerce Act is hereby amended by striking out the period at the end thereof and inserting in lieu thereof a colon and the following: "*Provided further*, That the Commission is hereby authorized to make suitable rules and regulations for the simplification of schedules of rates, fares, charges, and classifications and to permit in such rules and regulations the filing of an amendment of or change in any rate, fare, charge, or classification without filing complete schedules covering rates, fares, charges or classifications not changed if, in its judgment, not inconsistent with the public interest."

SEC. 411. The seventh paragraph of section 6 of the Interstate Commerce Act is hereby amended by striking out the proviso at the end.

SEC. 412. The two paragraphs under (a) of the thirteenth paragraph of section 6 of the Interstate Commerce Act are hereby amended so as to be combined into one paragraph to read as follows:

"(a) To establish physical connection between the lines of the rail carrier and the dock at which interchange of passengers or property is to be made by directing the rail carrier to make suitable connection between its line and a track or tracks which have been constructed from the dock to the limits of the railroad right of way, or by directing either or both the rail and water carrier, individually or in connection with one another, to construct and connect with the lines of the rail carrier a track or tracks to the dock. The Commission shall have full authority to determine and prescribe the terms and conditions upon which these connecting tracks shall be operated, and it may, either in the construction or the operation of such tracks, determine what

sum shall be paid to or by either carrier: *Provided*, That construction required by the Commission under the provisions of this paragraph shall be subject to the same restrictions as to findings of public convenience and necessity and other matters as is construction required under section 1 of this Act."

SEC. 413. Paragraph (c) of the thirteenth paragraph of section 6 of the Interstate Commerce Act is hereby amended to read as follows:

"(c) To establish proportional rates, or maximum, or minimum, or maximum and minimum proportional rates, by rail to and from the ports to which the traffic is brought, or from which it is taken by the water carrier, and to determine to what traffic and in connection with what vessels and upon what terms and conditions such rates shall apply. By proportional rates are meant those which differ from the corresponding local rates to and from the port and which apply only to traffic which has been brought to the port or is carried from the port by a common carrier by water."

SEC. 414. Section 10 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph, "(2)" at the beginning of the second paragraph, "(3)" at the beginning of the third paragraph, and "(4)" at the beginning of the fourth paragraph, and by inserting after the words "transportation of passengers or property," in the proviso in the first paragraph thereof, the words "or the transmission of intelligence."

SEC. 415. Section 12 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph, "(2)" at the beginning of the second paragraph, "(3)" at the beginning of the third paragraph, "(4)" at the beginning of the fourth paragraph, "(5)" at the beginning of the fifth paragraph, "(6)" at the beginning of the sixth paragraph, and "(7)" at the beginning of the seventh paragraph.

SEC. 416. Section 13 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph and "(2)" at the beginning of the second paragraph, and by adding at the end thereof two new paragraphs to read as follows:

"(3) Whenever in any investigation under the provisions of this Act, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed, there shall be brought in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this Act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this Act.

"(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the de-

cision or order of any State authority to the contrary notwithstanding."

SEC. 417. Section 14 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph, "(2)" at the beginning of the second paragraph, and "(3)" at the beginning of the third paragraph.

SEC. 418. The first four paragraphs of section 15 of the Interstate Commerce Act are hereby amended to read as follows:

"SEC. 15. (1) That whenever, after full hearing, upon a complaint made as provided in section 13 of this Act, or after full hearing under an order for investigation and hearing made by the Commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the Commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this Act for the transportation of persons or property or for the transmission of messages as defined in the first section of this Act, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this Act, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, the Commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or

charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

"(2) Except as otherwise provided in this Act, all orders of the Commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than thirty days, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

"(3) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property, or the maxima or minima, or maxima and minima, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated; and this provision, except as herein otherwise provided, shall apply when one of the carriers is a water line. The Commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character; nor shall the Commission have the right to establish any route, classification, or practice, or any rate, fare, or charge when the transportation is wholly by water, and any transportation by water affected by this Act shall be subject to the laws and regulations applicable to transportation by water.

"(4) In establishing any such through route the Commission shall not (except as provided in section 3, and except where one of the carriers is a water line), require any carrier by railroad, without its consent, to embrace in such route

substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith, which lies between the termini of such proposed through route, unless such inclusion of lines would make the through route unreasonably long as compared with another practicable through route which could otherwise be established: *Provided*, That in time of shortage of equipment, congestion of traffic, or other emergency declared by the Commission it may (either upon complaint or upon its own initiative without complaint, at once, if it so orders without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine) establish temporarily such through routes as in its opinion are necessary or desirable in the public interest.

"(5) Transportation wholly by railroad of ordinary livestock in car-load lots destined to or received at public stockyards shall include all necessary service of unloading and reloading en route, delivery at public stockyards of inbound shipments into suitable pens, and receipt and loading at such yards of outbound shipments, without extra charge therefor to the shipper, consignee or owner, except in cases where the unloading or reloading en route is at the request of the shipper, consignee or owner, or to try an intermediate market, or to comply with quarantine regulations. The Commission may prescribe or approve just and reasonable rules governing each of such excepted services. Nothing in this paragraph shall be construed to affect the duties and liabilities of the carriers now existing by virtue of law respecting the transportation of other than ordinary livestock, or the duty of performing service as to shipments other than those to or from public stockyards.

"(6) Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established),

the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers; and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge.

"(7) Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice; and pending such hearing and the decision thereon the Commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regula-

tion, or practice, but not for a longer period than one hundred and twenty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, as above stated, the Commission may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period, but, in case of a proposed increased rate or charge for or in respect to the transportation of property, the Commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate, fare, or charge increased after January 1, 1910, or of a rate, fare, or charge sought to be increased after the passage of this Act, the burden of proof to show that the increased rate, fare, or charge, or proposed increased rate, fare, or charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible."

SEC. 419. The fifth paragraph of section 15 of the Interstate Commerce Act is hereby amended by inserting "(8)" at the beginning of such paragraph.

SEC. 420. Section 15 of the Interstate Commerce Act is hereby amended by inserting after the fifth paragraph two new paragraphs, to read as follows:

"(9) Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in

the bill of lading, unless such diversion or delivery is in compliance with a lawful order, rule, or regulation of the Commission, such carriers shall, in a suit or action in any court of competent jurisdiction, be jointly and severally liable to the carrier thus deprived of its right to participate in the haul of the property, for the total amount of the rate or charge it would have received had it participated in the haul of the property. The carrier to which the property is thus diverted shall not be liable in such suit or action if it can show, the burden of proof being upon it, that before carrying the property it had no notice, by bill of lading, waybill or otherwise, of the routing instructions. In any judgment which may be rendered the plaintiff shall be allowed to recover against the defendant a reasonable attorneys' fee to be taxed in the case.

"(10) With respect to traffic not routed by the shipper, the Commission may, whenever the public interest and a fair distribution of the traffic require, direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier, and is to be there delivered to another carrier."

SEC. 421. Section 15 of the Interstate Commerce Act is hereby further amended by inserting "(11)" at the beginning of the sixth paragraph, "(12)" at the beginning of the seventh paragraph, "(13)" at the beginning of the eighth paragraph, and "(14)" at the beginning of the ninth paragraph.

SEC. 422. The Interstate Commerce Act is further amended by inserting after section 15 a new section to be known as section 15a and to read as follows:

"SEC. 15a. (1) When used in this section the term 'rates' means rates, fares, and charges, and all classifications, regulations, and practices, relating thereto; the term 'carrier' means a carrier by railroad or partly by railroad and partly by water, within the continental United States, subject to this Act, excluding (a) sleeping-car companies and express companies, (b) street or suburban electric railways unless operated as a part of a general steam railroad system of transportation, (c) interurban electric railways unless operated as a part of a general steam railroad system of transportation

or engaged in the general transportation of freight, and (d) any belt-line railroad, terminal switching railroad, or other terminal facility, owned exclusively and maintained, operated, and controlled by any State or political subdivision thereof; and the term 'net railway operating income' means railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents.

"(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: *Provided*, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

"(3) The Commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all rate groups or territories which may be designated by the Commission. In making such determination it shall give due consideration, among other things, to the transportation needs of the country and the necessity (under honest, efficient and economical management of existing transportation facilities) of enlarging such facilities in order to provide the people of the United States with adequate transportation: *Provided*, That during the two years beginning March 1, 1920, the Commission shall take as such fair return a sum equal to 5½ per centum of such aggregate value, but may, in its discretion, add thereto a sum not exceeding one-half of one per centum of such aggregate value to make provision in whole or in part for improvements, betterments or equipment, which, according to the accounting system prescribed by the Commission, are chargeable to capital account.

"(4) For the purposes of this section, such aggregate value of the property of the carriers shall be determined by the Commission from time to time and as often as may be necessary. The Commission may utilize the results of its investigation under section 19a of this Act, in so far as deemed by it available, and shall give due consideration to all the elements of value recognized by the law of the land for rate-making purposes, and shall give to the property investment account of the carriers only that consideration which under such law it is entitled to in establishing values for rate-making purposes. Whenever pursuant to section 19a of this Act the value of the railway property of any carrier held for and used in the service of transportation has been finally ascertained, the value so ascertained shall be deemed by the Commission to be the value thereof for the purpose of determining such aggregate value.

"(5) Inasmuch as it is impossible (without regulation and control in the interest of the commerce of the United States considered as a whole) to establish uniform rates upon competitive traffic which will adequately sustain all the carriers which are engaged in such traffic and which are indispensable to the communities to which they render the service of transportation, without enabling some of such carriers to receive a net railway operating income substantially and unreasonably in excess of a fair return upon the value of their railway property held for and used in the service of transportation, it is hereby declared that any carrier which receives such an income so in excess of a fair return, shall hold such part of the excess, as hereinafter prescribed, as trustee for, and shall pay it to, the United States.

"(6) If, under the provisions of this section, any carrier receives for any year a net railway operating income in excess of 6 per centum of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund established and maintained by such carrier, and the remaining one-half thereof shall, within the first four months following the close of the period for which such computation is made, be recoverable by and paid to the Commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described. For the purposes of this paragraph the value

of the railway property and the net railway operating income of a group of carriers, which the Commission finds are under common control and management and are operated as a single system, shall be computed for the system as a whole irrespective of the separate ownership and accounting returns of the various parts of such system. In the case of any carrier which has accepted the provisions of section 209 of this amendatory Act the provisions of this paragraph shall not be applicable to the income for any period prior to September 1, 1920. The value of such railway property shall be determined by the Commission in the manner provided in paragraph (4).

"(7) For the purpose of paying dividends or interest on its stocks, bonds or other securities, or rent for leased roads, a carrier may draw from the reserve fund established and maintained by it under the provisions of this section to the extent that its net railway operating income for any year is less than a sum equal to 6 per centum of the value of the railway property held for and used by it in the service of transportation, determined as provided in paragraph (6); but such fund shall not be drawn upon for any other purpose.

"(8) Such reserve fund need not be accumulated and maintained by any carrier beyond a sum equal to 5 per centum of the value of its railway property determined as herein provided, and when such fund is so accumulated and maintained the portion of its excess income which the carrier is permitted to retain under paragraph (6) may be used by it for any lawful purpose.

"(9) The Commission shall prescribe rules and regulations for the determination and recovery of the excess income payable to it under this section, and may require such security and prescribe such reasonable terms and conditions in connection therewith as it may find necessary. The Commission shall make proper adjustments to provide for the computation of excess income for a portion of a year, and for a year in which a change in the percentage constituting a fair return or in the value of a carrier's railway property becomes effective.

"(10) The general railroad contingent fund so to be recoverable by and paid to the Commission and all accretions thereof shall be a revolving fund and shall be administered

by the Commission. It shall be used by the Commission in furtherance of the public interest in railway transportation either by making loans to carriers to meet expenditures for capital account or to refund maturing securities originally issued for capital account, or by purchasing transportation equipment and facilities and leasing the same to carriers, as hereinafter provided. Any moneys in the fund not so employed shall be invested in obligations of the United States or deposited in authorized depositaries of the United States subject to the rules promulgated from time to time by the Secretary of the Treasury relating to Government deposits.

"(11) A carrier may at any time make application to the Commission for a loan from the general railroad contingent fund, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the Commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the Commission may deem pertinent to the inquiry.

"(12) If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan from the general railroad contingent fund is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the Commission may make a loan to the applicant from such railroad contingent fund, in such amount, for such length of time, and under such terms and conditions as it may deem

proper. The Commission shall also prescribe the security to be furnished, which shall be adequate to secure the loan. All such loans shall bear interest at the rate of 6 per centum per annum, payable semiannually to the Commission. Such loans when repaid, and all interest paid thereon, shall be placed in the general railroad contingent fund.

"(13) A carrier may at any time make application to the Commission for the lease to it of transportation equipment or facilities, purchased from the general railroad contingent fund, setting forth the kind and amount of such equipment or facilities and the term for which it is desired to be leased, the uses to which it is proposed to put such equipment or facilities, the present and prospective ability of the applicant to pay the rental charges thereon and to meet the requirements of its obligations under the lease, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the Commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of leasing such equipment or facilities to the applicant as the Commission may deem pertinent to the inquiry.

"(14) If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the leasing to the applicant of such equipment or facilities, in whole or in part, is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant is such as to furnish reasonable assurance of the applicant's ability to pay promptly the rental charges and meet its other obligations under such lease, the Commission may lease such equipment or facilities purchased by it from the general railroad contingent fund, to the applicant for such length of time, and under such terms and conditions as it may deem proper. The rental charges provided in every such lease shall be at least sufficient to pay a return of 6 per centum per annum, plus allowance for depreciation determined as provided in paragraph (5) of section 20 of this Act, upon the value of the equipment or facilities leased thereunder. All rental charges and

other payments received by the Commission in connection with such equipment and facilities, including amounts received under any sale thereof, shall be placed in the general railroad contingent fund.

"(15) The Commission may from time to time purchase, contract for the construction, repair and replacement of, and sell, equipment and facilities, and enter into and carry out contracts and other obligations in connection therewith, to the extent that moneys included in the general railroad contingent fund are available therefor, and in so far as necessary to enable it to secure and supply equipment and facilities to carriers whose applications therefor are approved under the provisions of this section, and to maintain and dispose of such equipment and facilities.

"(16) The Commission may from time to time prescribe such rules and regulations as it deems necessary to carry out the provisions of this section respecting the making of loans and the lease of equipment and facilities.

"(17) The provisions of this section shall not be construed as depriving shippers of their right to reparation in case of overcharges, unlawfully excessive or discriminatory rates, or rates excessive in their relation to other rates, but no shipper shall be entitled to recover upon the sole ground that any particular rate may reflect a proportion of excess income to be paid by the carrier to the Commission in the public interest under the provisions of this section.

"(18) Any carrier, or any corporation organized to construct and operate a railroad, proposing to undertake the construction and operation of a new line of railroad may apply to the Commission for permission to retain for a period not to exceed ten years all or any part of its earnings derived from such new construction in excess of the amount heretofore in this section provided, for such disposition as it may lawfully make of the same, and the Commission may, in its discretion, grant such permission, conditioned, however, upon the completion of the work of construction within a period to be designated by the Commission in its order granting such permission."

SEC. 423. The first paragraph of section 16 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of such paragraph.

SEC. 424. The second paragraph of section 16 of the Interstate Commerce Act is hereby amended by inserting "(2)" at the beginning of such paragraph, and by striking out the last sentence thereof and inserting in lieu thereof the following as a new paragraph:

"(3) All actions at law by carriers subject to this Act for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after. All complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after, unless the carrier, after the expiration of such two years or within ninety days before such expiration, begins an action for recovery of charges in respect of the same service, in which case such period of two years shall be extended to and including ninety days from the time such action by the carrier is begun. In either case the cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after. A petition for the enforcement of an order for the payment of money shall be filed in the district court or State court within one year from the date of the order, and not after."

SEC. 425. The third, fourth, fifth, and sixth paragraphs of section 16 of the Interstate Commerce Act are hereby amended by inserting "(4)" at the beginning of the third paragraph, "(5)" at the beginning of the fourth paragraph, "(6)" at the beginning of the fifth paragraph, and "(7)" at the beginning of the sixth paragraph.

SEC. 426. The seventh paragraph of section 16 of the Interstate Commerce Act is hereby amended to read as follows:

"(8) Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of sections 3, 13, or 15 of this Act shall forfeit to the United States the sum of $5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense."

SEC. 427. The eighth and ninth paragraphs of section 16 of the Interstate Commerce Act are hereby amended by inserting "(9)" at the beginning of the eighth paragraph and "(10)" at the beginning of the ninth paragraph.

SEC. 428. The tenth paragraph of section 16 of the Interstate Commerce Act is hereby amended to read as follows:

"(11) The Commission may employ such attorneys as it finds necessary for proper legal aid and service of the Commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the Commission's own instance or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission."

SEC. 429. The eleventh and twelfth paragraphs of section 16 of the Interstate Commerce Act are hereby amended by inserting "(12)" at the beginning of the eleventh paragraph and "(13)" at the beginning of the twelfth paragraph.

SEC. 430. Section 17 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph.

SEC. 431. The second paragraph of section 17 of the Interstate Commerce Act is hereby amended to read as follows:

"(2) The Commission is hereby authorized by its order to divide the members thereof into as many divisions (each to consist of not less than three members) as it may deem necessary, which may be changed from time to time. Such divisions shall be denominated, respectively, division one, division two, and so forth. Any Commissioner may be assigned to and may serve upon such division or divisions as the Commission may direct, and the senior in service of the Commissioners constituting any of said divisions shall act as chairman thereof. In case of vacancy in any division, or of absence or inability to serve thereon of any Commissioner thereto assigned, the chairman of the Commission or any Commissioner designated by him for that purpose, may temporarily serve on said division until the Commission shall otherwise order."

SEC. 432. The third and fourth paragraphs of section 17 of the Interstate Commerce Act are hereby amended by inserting "(3)" at the beginning of the third paragraph, and "(4)" at the beginning of the fourth paragraph.

The fifth and sixth paragraphs of such section are hereby repealed.

The seventh paragraph of such section is hereby amended by inserting "(5)" at the beginning of such paragraph.

SEC. 433. Section 18 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph, and "(2)" at the beginning of the second paragraph.

Section 19a of the Interstate Commerce Act is hereby amended by inserting "(a)" after the section number at the beginning of the first paragraph, "(b)" at the beginning of the second paragraph, "(c)" at the beginning of the seventh paragraph, "(d)" at the beginning of the eighth paragraph, "(e)" at the beginning of the ninth paragraph, "(f)" at the beginning of the tenth paragraph, "(g)" at the beginning of the eleventh paragraph, "(h)" at the beginning of the twelfth paragraph, "(i)" at the beginning of the thirteenth paragraph, "(j)" at the beginning of the fourteenth paragraph, "(k)" at the beginning of the fifteenth paragraph, and "(l)" at the beginning of the sixteenth paragraph.

SEC. 434. Section 20 of the Interstate Commerce Act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph, "(2)" at the beginning of the second paragraph, "(3)" at the beginning of the third paragraph, and "(4)" at the beginning of the fourth paragraph.

SEC. 435. The fifth paragraph of section 20 of the Interstate Commerce Act is hereby amended to read as follows:

"(5) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this Act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. The Commission shall, as soon as practicable, prescribe, for carriers subject to this Act, the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of deprecia-

tion which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. The carriers subject to this Act shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. The Commission shall at all times have access to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by carriers subject to this Act, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, and it may employ special agents or examiners, who shall have authority under the order of the Commission to inspect and examine any and all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers. This provision shall apply to receivers of carriers and operating trustees. The provisions of this section shall also apply to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, kept during the period of Federal control, and placed by the President in the custody of carriers subject to this Act."

SEC. 436. The sixth paragraph of section 20 of the Interstate Commerce Act is hereby amended by inserting "(6)" at the beginning of such paragraph.

The seventh paragraph of section 20 of the Interstate Commerce Act is hereby amended by striking out "Par. 7," at the beginning of such paragraph and inserting "(7)" in lieu thereof.

The eighth to twelfth paragraphs, inclusive, of section 20 of the Interstate Commerce Act are hereby amended by inserting "(8)" at the beginning of the eighth paragraph, "(9)" at the beginning of the ninth paragraph, "(10)" at the beginning of the tenth paragraph, "(11)" at the beginning of the eleventh paragraph, and "(12)" at the beginning of the twelfth paragraph.

SEC. 437. The eleventh paragraph of section 20 of the Interstate Commerce Act is hereby amended by inserting immediately before the first proviso thereof the following:

"*Provided*, That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by and under the laws and regulations applicable to transportation by water, and the liability of the initial carrier shall be the same as that of such carrier by water."

SEC. 438. The third proviso of the eleventh paragraph of section 20 of the Interstate Commerce Act (not counting the proviso added by section 437 of this Act) is hereby amended to read as follows:

"*Provided further*, That it shall be unlawful for any such common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than ninety days, for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice."

SEC. 439. The Interstate Commerce Act is further amended by inserting therein a new section between section 20 and section 21, to be designated section 20a, and to read as follows:

"SEC. 20a. (1) That as used in this section the term 'carrier' means a common carrier by railroad (except a street, suburban, or interurban electric railway which is not operated as a part of a general steam railroad system of transportation) which is subject to this Act, or any corporation organized for the purpose of engaging in transportation by railroad subject to this Act.

"(2) From and after one hundred and twenty days after this section takes effect it shall be unlawful for any carrier to issue any share of capital stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter in this section collectively termed 'securities') or to assume any obligation or liability as lessor, lessee, guarantor, indorser, surety, or otherwise, in respect of the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the Commission of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability in respect of the securities of any other person, natural or artificial, the Commission by order authorizes such issue or assumption. The Commission shall make such order only if it finds that such issue or assumption: (a) is for some lawful object within its corporate purposes, and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

"(3) The Commission shall have power by its order to grant or deny the application as made, or to grant it in part and deny it in part, or to grant it with such modifications and upon such terms and conditions as the Commission may deem necessary or appropriate in the premises, and may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any securities so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of the foregoing paragraph (2).

"(4) Every application for authority shall be made in such form and contain such matters as the Commission may prescribe. Every such application, as also every certificate of notification hereinafter provided for, shall be made under oath, signed and filed on behalf of the carrier by its

president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

"(5) Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held unencumbered in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within ten days after such sale, pledge, repledge, or other disposition, file with the Commission a certificate of notification to that effect, setting forth therein all such facts as may be required by the Commission.

"(6) Upon receipt of any such application for authority the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which the applicant carrier operates. The railroad commisions, public service or utilities commissions, or other appropriate State authorities of the State shall have the right to make before the Commission such representations as they may deem just and proper for preserving and conserving the rights and interests of their people and the States, respectively, involved in such proceeding. The Commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

"(7) The jurisdiction conferred upon the Commission by this section shall be exclusive and plenary, and a carrier may issue securities and assume obligations or liabilities in accordance with the provisions of this section without securing approval other than as specified herein.

"(8) Nothing herein shall be construed to imply any guaranty or obligation as to such securities on the part of the United States.

"(9) The foregoing provisions of this section shall not apply to notes to be issued by the carrier maturing not more than two years after the date thereof and aggregating (together with all other then outstanding notes of a maturity of two years or less) not more than 5 per centum of the par value of the securities of the carrier then outstanding. In the case of securities having no par value, the par value for the purposes of this paragraph shall be the fair market value

as of the date of issue. Within ten days after the making of such notes the carrier issuing the same shall file with the Commission a certificate of notification, in such form as may from time to time be determined and prescribed by the Commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities: *Provided*, That in any subsequent funding of such notes the provisions of this section respecting other securities shall apply.

"(10) The Commission shall require periodical or special reports from each carrier hereafter issuing any securities, including such notes, which shall show, in such detail as the Commission may require, the disposition made of such securities and the application of the proceeds thereof.

"(11) Any security issued or any obligation or liability assumed by a carrier, for which under the provisions of this section the authorization of the Commission is required, shall be void, if issued or assumed without such authorization therefor having first been obtained, or if issued or assumed contrary to any term or condition of such order of authorization as modified by any order supplemental thereto entered prior to such issuance or assumption; but no security issued or obligation or liability assumed in accordance with all the terms and conditions of such an order of authorization therefor as modified by any order supplemental thereto entered prior to such issuance or assumption, shall be rendered void because of failure to comply with any provision of this section relating to procedure and other matters preceding the entry of such order of authorization. If any security so made void or any security in respect to which the assumption of obligation or liability is so made void, is acquired by any person for value and in good faith and without notice that the issue or assumption is void, such person may in a suit or action in any court of competent jurisdiction hold jointly and severally liable for the full amount of the damage sustained by him in respect thereof, the carrier which issued the security so made void, or assumed the obligation or liability so made void, and its directors, officers, attorneys, and other agents, who participated in any way in the authorizing, issuing, hypothecating, or selling of the security so made void or in the authorizing of the assumption of the obligation or lia-

bility so made void. In case any security so made void was directly acquired from the carrier issuing it the holder may at his option rescind the transaction and upon the surrender of the security recover the consideration given therefor. Any director, officer, attorney, or agent of the carrier who knowingly assents to or concurs in any issue of securities or assumptions of obligation or liability forbidden by this section, or any sale or other disposition of securities contrary to the provisions of the Commission's order or orders in the premises, or any application not authorized by the Commission of the funds derived by the carrier through such sale or other disposition of such securities, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

"(12) After December 31, 1921, it shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the Commission, upon due showing, in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. After this section takes effect it shall be unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court."

SEC. 440. Section 24 of the Interstate Commerce Act is hereby amended to read as follows:

"SEC. 24. That the Commission is hereby enlarged so as to consist of eleven members, with terms of seven years, and

each shall receive $12,000 compensation annually. The qualifications of the members and the manner of payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1923, and one for a term expiring December 31, 1924. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than six commissioners shall be appointed from the same political party. Hereafter the salary of the secretary of the Commission shall be $7,500 a year."

SEC. 441. The Interstate Commerce Act is hereby further amended by adding at the end thereof three new sections, to read as follows:

"SEC. 25 (1) That every common carrier by water in foreign commerce, whose vessels are registered under the laws of the United States, shall file with the Commission, within thirty days after this section becomes effective and regularly thereafter as changes are made, a schedule or schedules showing for each of its steam vessels intended to load general cargo at ports in the United States for foreign destinations (a) the ports of loading, (b) the dates upon which such vessels will commence to receive freight and dates of sailing, (c) the route and itinerary such vessels will follow and the ports of call for which cargo will be carried.

"(2) Upon application of any shipper a carrier by railroad shall make request for, and the carrier by water shall upon receipt of such request name, a specific rate applying for such sailing, and upon such commodity as shall be embraced in the inquiry, and shall name in connection with such rate, port charges, if any, which accrue in addition to the vessel's rates and are not otherwise published by the

railway as in addition to or absorbed in the railway rate. Vessel rates, if conditioned upon quantity of shipment, must be so stated and separate rates may be provided for carload and less than carload shipments. The carrier by water, upon advices from a carrier by railroad, stating that the quoted rate is firmly accepted as applying upon a specifically named quantity of any commodity, shall, subject to such conditions as the Commission by regulation may prescribe, make firm reservation from unsold space in such steam vessel as shall be required for its transportation and shall so advise the carrier by railroad, in which advices shall be included the latest available information as to prospective sailing date of such vessel.

"(3) As the matters so required to be stated in such schedule or schedules are changed or modified from time to time, the carrier shall file with the Commission such changes or modifications as early as practicable after such modification is ascertained. The Commission is authorized to make and publish regulations not inconsistent herewith governing the manner and form in which such carriers are to comply with the foregoing provisions. The Commission shall cause to be published in compact form, for the information of shippers of commodities throughout the country, the substance of such schedules, and furnish such publications to all railway carriers subject to this Act, in such quantities that railway carriers may supply to each of their agents who receive commodities for shipment in such cities and towns as may be specified by the Commission, a copy of said publication; the intent being that each shipping community sufficiently important, from the standpoint of the export trade, to be so specified by the Commission shall have opportunity to know the sailings and routes, and to ascertain the transportation charges of such vessels engaged in foreign commerce. Each railway carrier to which such publication is furnished by the Commission is hereby required to distribute the same as aforesaid and to maintain such publication as it is issued from time to time, in the hands of its agents. The Commission is authorized to make such rules and regulations not inconsistent herewith respecting the distribution and maintenance of such publications in the several communities so specified as will further the intent of this section.

"(4) When any consignor delivers a shipment of property to any of the places so specified by the Commission, to be delivered by a railway carrier to one of the vessels upon which space has been reserved at a specified rate previously ascertained, as provided herein, for the transportation by water from and for a port named in the aforesaid schedule, the railway carrier shall issue a through bill of lading to the point of destination. Such bill of lading shall name separately the charge to be paid for the railway transportation, water transportation, and port charges, if any, not included in the rail or water transportation charge; but the carrier by railroad shall not be liable to the consignor, consignee, or other person interested in the shipment after its delivery to the vessel. The Commission shall, in such manner as will preserve for the carrier by water the protection of limited liability provided by law, make such rules and regulations not inconsistent herewith as will prescribe the form of such through bill of lading. In all such cases it shall be the duty of the carrier by railroad to deliver such shipment to the vessel as a part of its undertaking as a common carrier.

"(5) The issuance of a through bill of lading covering shipments provided for herein shall not be held to constitute 'an arrangement for continuous carriage or shipment' within the meaning of this Act.

"SEC. 26. That the Commission may, after investigation, order any carrier by railroad subject to this Act, within a time specified in the order, to install automatic train-stop or train-control devices or other safety devices, which comply with specifications and requirements prescribed by the Commission, upon the whole or any part of its railroad, such order to be issued and published at least two years before the date specified for its fulfillment: *Provided*, That a carrier shall not be held to be negligent because of its failure to install such devices upon a portion of its railroad not included in the order; and any action arising because of an accident happening upon such portion of its railroad shall be determined without consideration of the use of such devices upon another portion of its railroad. Any common carrier which refuses or neglects to comply with any order of the Commission made under the authority conferred by this section shall be liable to a penalty of $100 for each day that

such refusal or neglect continues, which shall accrue to the United States, and may be recovered in a civil action brought by the United States.

"SEC. 27. That this Act may be cited as the 'Interstate Commerce Act.' "

Title V.—Miscellaneous Provisions

SEC. 500. It is hereby declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation.

It shall be the duty of the Secretary of War, with the object of promoting, encouraging, and developing inland waterway transportation facilities in connection with the commerce of the United States, to investigate the appropriate types of boats suitable for different classes of such waterways; to investigate the subject of water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, and also railroad spurs and switches connecting with such terminals, with a view to devising the types most appropriate for different locations, and for the more expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities, cities, and towns regarding the appropriate location of such terminals, and to cooperate with them in the preparation of plans for suitable terminal facilities; to investigate the existing status of water transportation upon the different inland waterways of the country, with a view to determining whether such waterways are being utilized to the extent of their capacity, and to what extent they are meeting the demands of traffic, and whether the water carriers utilizing such waterways are interchanging traffic with the railroads; and to investigate any other matter that may tend to promote and encourage inland water transportation. It shall also be the province and duty of the Secretary of War to compile, publish, and distribute, from time to time, such useful statistics, data, and information concerning

transportation on inland waterways as he may deem to be of value to the commercial interests of the country.

The words "inland waterway" as used in this section shall be construed to include the Great Lakes.

SEC. 501. The effective date on and after which the provisions of section 10 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, shall become and be effective is hereby deferred and extended to January 1, 1921: *Provided*, That such extension shall not apply in the case of any corporation organized after January 12, 1918.

SEC. 502. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair, or invalidate the remainder of the Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered.

Approved February 28, 1920

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